



**1997**

# ***Illinois Register***

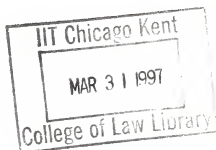
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**Rules of Governmental Agencies**

Volume 21, Issue 13 — March 28, 1997

Pages 3781 - 4067

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Index Department  
Administrative Code Div.  
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Springfield, IL 62756  
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Secretary of State

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## INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. The Register also contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current Register volume year and a Sections Affected Index listing by Title each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume year. Both indices are action coded and are designed to aid the public in monitoring rules.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State statute; and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies; is also published in the Register.

The Register is a weekly update to the *Illinois Administrative Code* (a compilation of the rules adopted by State agencies). The most recent edition of the Code along with the Register comprise the most current accounting of State agencies' rules.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1 et seq.].

## REGISTER PUBLICATION SCHEDULE 1997

Material Rec'd after Noon on:	And before Noon on:	Will be in Issue #:	Published on:	Material Rec'd after Noon on:	And before Noon on:	Will be in Issue #:	Published on:
Dec. 24, 1996	Dec. 31, 1996	1	Jan. 3, 1997	July 1, 1997	July 8, 1997	28	July 11, 1997
Dec. 31, 1996	Jan. 7, 1997	2	Jan. 10, 1997	July 8, 1997	July 15, 1997	29	July 18, 1997
Jan. 7, 1997	Jan. 14, 1997	3	Jan. 17, 1997	July 15, 1997	July 22, 1997	30	July 25, 1997
Jan. 14, 1997	Jan. 21, 1997	4	Jan. 24, 1997	July 22, 1997	July 29, 1997	31	Aug. 1, 1997
Jan. 21, 1997	Jan. 28, 1997	5	Jan. 31, 1997	July 29, 1997	Aug. 5, 1997	32	Aug. 8, 1997
Jan. 28, 1997	Feb. 4, 1997	6	Feb. 7, 1997	Aug. 5, 1997	Aug. 12, 1997	33	Aug. 15, 1997
Feb. 4, 1997	Feb. 11, 1997	7	Feb. 14, 1997	Aug. 12, 1997	Aug. 19, 1997	34	Aug. 22, 1997
Feb. 11, 1997	Feb. 18, 1997	8	Feb. 21, 1997	Aug. 19, 1997	Aug. 26, 1997	35	Aug. 29, 1997
Feb. 18, 1997	Feb. 25, 1997	9	Feb. 28, 1997	Aug. 26, 1997	Sept. 2, 1997	36	Sept. 5, 1997
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Mar. 4, 1997	Mar. 11, 1997	11	Mar. 14, 1997	Sept. 9, 1997	Sept. 16, 1997	38	Sept. 19, 1997
Mar. 11, 1997	Mar. 18, 1997	12	Mar. 21, 1997	Sept. 16, 1997	Sept. 23, 1997	39	Sept. 26, 1997
Mar. 18, 1997	Mar. 25, 1997	13	Mar. 28, 1997	Sept. 23, 1997	Sept. 30, 1997	40	Oct. 3, 1997
Mar. 25, 1997	Apr. 1, 1997	14	Apr. 4, 1997	Sept. 30, 1997	Oct. 7, 1997	41	Oct. 10, 1997
Apr. 1, 1997	Apr. 8, 1997	15	Apr. 11, 1997	Oct. 7, 1997	Oct. 14, 1997	42	Oct. 17, 1997
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May 6, 1997	May 13, 1997	20	May 16, 1997	Nov. 10, 1997*	Nov. 18, 1997	47	Nov. 21, 1997
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June 24, 1997	July 1, 1997	27	July 7, 1997*	Dec. 30, 1997	Jan. 6, 1998	2	Jan. 9, 1998

Please note: When the Register deadline falls on a State holiday, the deadline becomes 4:30 p.m. on Monday (the day before).

\* Monday

## CARNIVAL-AMUSEMENT SAFETY BOARD

## NOTICE OF PROPOSED AMENDMENT

1) Heading of Part: Carnival and Amusement Ride Inspection Law

2) Code Citation: 56 Ill. Adm. Code 6000

3) Section Number:  
6000.300  
Proposed Action:  
Amendment

4) Statutory Authority: 430 ICS 85/2-6

5) A Complete Description of the Subject and Issues Involved: This proposed rulemaking implements action taken by the Carnival and Amusement Safety Board at their May 21, 1996 and January 18, 1997 meetings. The Board believes that go-karts used in racing events, commonly advertised as "Go-Kart Charity Gran Prix," which are not sanctioned by a nationally recognized racing association, present a hazard to the public and are subject to regulation under the Carnival and Amusement Rides Safety Act.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Will this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
6000.10	Amendment	August 23, 1996, 20 Ill. Reg. 11428
6000.50	Amendment	August 23, 1996, 20 Ill. Reg. 11428
6000.120	Amendment	August 23, 1996, 20 Ill. Reg. 11428
6000.220	Amendment	August 23, 1996, 20 Ill. Reg. 11428

10) Statement of Statewide Policy Objectives: This rule will not create or enlarge any state mandate.

11) Time, Place and Manner in which interested persons may comment on the this proposed rulemaking: A public hearing will be held as follows:

May 20, 1997  
Tuesday, 11:00 A.M.  
Illinois Department of Labor  
State of Illinois Building  
160 N. LaSalle, Suite C-1300  
Chicago, Illinois 60601

Oral testimony will be limited to 10 minutes per person. Written comments should be submitted within 45 days after this notice to:

## CARNIVAL-AMUSEMENT SAFETY BOARD

## NOTICE OF PROPOSED AMENDMENT

Carl Kimble, Chief Inspector  
Carnival & Amusement Ride Division  
Illinois Department of Labor  
#1 W. Old State Capitol Plaza, Room 300  
Springfield, IL 62701  
217-782-9347

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: This rulemaking will affect only those racing events that are not sanctioned by a nationally recognized racing association. The services of some of these associations are available at no cost and therefore would have no financial impact upon the organizer or the charity.

B) Reporting, bookkeeping or other procedures required for compliance:  
N/A

C) Types of professional skills necessary for compliance: N/A

13) Regulatory Agenda on which this rulemaking was summarized: July 1996

The full text of the Proposed Amendment begins on the next page.

## CARNIVAL-AMUSEMENT SAFETY BOARD

## NOTICE OF PROPOSED AMENDMENT

TITLE 56: LABOR AND EMPLOYMENT  
CHAPTER XIII: CARNIVAL-AMUSEMENT SAFETY BOARD

## PART 6000

## CARNIVAL AND AMUSEMENT RIDE INSPECTION LAW

## Section

6000.10	Definitions
6000.20	Exemptions
6000.30	Inspections
6000.40	Application for a permit to operate
6000.50	Permit and inspection fees
6000.60	Revocation of permit to operate (Repealed)
6000.65	Suspension of permit to operate
6000.70	Ride Design and Construction
6000.80	Insurance
6000.90	Penalties
6000.100	Appeals
6000.110	Assembly and Disassembly
6000.120	Operator Requirements
6000.130	Passenger Conduct
6000.140	Signal Systems
6000.150	Design Inspection and Test
6000.160	Repairs
6000.170	Maintenance
6000.180	Stop Operation Order
6000.190	Fire Prevention and Protection
6000.200	Internal Combustion Engines
6000.210	Means of Access and Egress
6000.220	Electrical Equipment
6000.230	Hydraulic Systems
6000.240	Air Compressors and Equipment
6000.250	Wire Rope
6000.260	Chain
6000.270	Inflated Amusement Attractions and Inflated Buildings
6000.280	Non-destructive Testing
6000.290	Ski Lifts, Aerial Tramways, and Rope Tows
6000.300	Go-Karts, Dune Buggies, and All-Terrain Vehicles
6000.310	Water Slides
6000.320	Dry Type Slides
6000.330	Trams
6000.340	Bungee Jumping

AUTHORITY: Implementing and authorized by the Carnival and Amusement Rides Safety Act (430 ILCS 85).

SOURCE: Emergency Rules adopted at 9 Ill. Reg. 7176, effective May 3, 1985, for a maximum of 150 days; emergency expired September 30, 1985; adopted at 10

## CARNIVAL-AMUSEMENT SAFETY BOARD

## NOTICE OF PROPOSED AMENDMENT

Ill. Reg. 7685, effective April 29, 1986; emergency amendment at 10 Ill. Reg. 19117, effective October 27, 1986, for a maximum of 150 days; amended at 11 Ill. Reg. 5986, effective March 24, 1987; amended at 11 Ill. Reg. 19650, effective November 18, 1987; amended at 12 Ill. Reg. 11186, effective June 20, 1988; emergency amendment at 13 Ill. Reg. 8025, effective May 15, 1989, for a maximum of 150 days; emergency expired October 12, 1989; amended at 13 Ill. Reg. 9235, effective January 1, 1990; emergency amendment at 14 Ill. Reg. 7276, effective February 9, 1990, for a maximum of 150 days; amended at 15 Ill. Reg. 9190, effective May 15, 1991; amended at 16 Ill. Reg. 7716, effective May 11, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12436, effective August 1, 1992; amended at 16 Ill. Reg. 15415, effective September 28, 1992; amended at 17 Ill. Reg. 14910, effective September 1, 1993; amended at 18 Ill. Reg. 13384, effective September 1, 1994; amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 6000.300 Go-Karts, Dune Buggies, and All-Terrain Vehicles

The following rules apply to all amusement rides and public events using go-karts, dune buggies, all terrain vehicles, or similar mechanized devices that do not have chassis designed for racing, and/or are not sanctioned by a nationally recognized racing association.

- a) Vehicle Requirements
  - 1) All vehicles shall be equipped with passenger padding, including, but not limited to, steering wheel pad, headrest pad, steering wheel support post and seat cushions.
  - 2) Vehicles shall be guarded to prevent interlocking of wheels during operation.
  - 3) All vehicles equipped with seat belts shall be equipped with a rollbar or similar device that is rigid, attached to the vehicle frame, and extends above the passenger's head.
  - 4) The maximum speed for a mini-racer or a vehicle that is strictly used by children is eight m.p.h.
  - 5) The engine governor will be set equal to, or less than, the maximum speed at which an inspector can safely maneuver a vehicle at full throttle through each curve of the track or course without the loss of traction or control.
  - 6) Vehicles shall be equipped with a guarding system that covers or encloses all rotating parts of the drive mechanism except the tires. The guarding system shall also cover the exhaust system to protect the passenger when entering or exiting the vehicle.
  - 7) Vehicles' fuel tanks shall be mounted and/or guarded in such a manner that provides protection to the passenger during operation and if an accident should occur.
  - 8) Wheels shall be retained by a castellated nut and cotter pin or other positive method.
- b) Track and Course Requirements
  - 1) The surface of the track or course used by Go-Karts shall be of a

## CARNIVAL-AMUSEMENT SAFETY BOARD

## NOTICE OF PROPOSED AMENDMENT

solid and binding material, such as concrete or asphalt.

- 2) Minimum width requirements for Go-Kart Tracks: Effective January 1, 1990:

A) For operations that do not allow the racing or the passing of vehicles, a minimum of four vehicle widths shall be maintained throughout the entire course or track.

B) For operations that allow racing and/or passing of vehicles, a minimum of six vehicle widths shall be maintained throughout the entire course or track.

3) A barrier system shall be installed around the inner and outer edges of the track course used by go-karts. The barrier shall extend the full length of the track course. The system shall include a guard rail, rubber tires, a runoff strip or embankment of friable earth or gravel or a combination thereof.

A) When rubber tires are used for a barrier system, these tires shall be free of the rims and/or wheels.

They shall be fastened together to form a continuous train. Tires shall never be stacked over two high.

B) If a metal or fiberglass rail is used as the barrier system, the rail surface shall be kept free of sharp or protruding edges or seams and shall be maintained so that there is no loose or unsecured areas.

C) A barrier system shall be installed to designate and protect the pit area or passenger loading area.

4) A fence or railing system shall be installed at maintenance buildings, driveways, pit area, and fuel storage pumping areas to keep patrons awaiting rides and spectators from entering these track areas without the permission of, or direction by the track personnel.

5) No intersecting Figure 8 track or course configurations shall be permitted.

c)

1) The attendant(s) or assistant(s) shall be able to clearly view the entire course.

2) Fire extinguishers shall be charged and readily available to the track personnel at all times.

3) The refueling of the vehicles shall take place in the pit area. All storage containers of gasoline and other flammables shall be in accordance with Section 6000.190 - Fire Prevention and Protection.

4) During night time operation, track lighting is required.

5) A signal system shall be installed to safely alert the drivers of the vehicles to a caution situation or to stop the vehicles in case of an emergency. This signal system may consist of, but is not limited to, a hand held flag system or a set of lights visible to the drivers. The system shall be explained to the drivers before operating any vehicle.

6) A separate and distinct maintenance log shall be kept for each

## CARNIVAL-AMUSEMENT SAFETY BOARD

## NOTICE OF PROPOSED AMENDMENT

vehicle. The maintenance logs shall be kept on a daily basis and kept available for inspector review. All replacing of parts should be noted. A comment section should be provided to allow the mechanic to make performance checks. The track mechanic shall sign each log sheet indicating that the vehicle is ready to operate. This log shall contain, but not limited to, the following information:

- A) Brake inspection;
  - B) Tire wear and pressure;
  - C) Steering inspection;
  - D) Body inspection;
  - E) Shock inspection;
  - F) Fabricated engine oil check; and
  - G) Drive mechanism.
- 7) Only one patron per seat shall be permitted in each vehicle.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)





## ILLINOIS COMMERCE COMMISSION

## NOTICE OF PROPOSED RULES

## Public Utilities Act.

B) Reporting, bookkeeping or other procedures required for compliance: Filing procedures.

C) Types of professional skills necessary for compliance: Legal and managerial skills.

13) Regulatory Agenda on which this rulemaking was summarized: These rules were not included in either of the two most recent agendas because: the Commission did not anticipate the need for these rules at that time.

The full text of the Proposed Rules for this Part is identical to the text of Emergency Rules appearing at date of this issue of the Illinois Register.

## ILLINOIS HOUSING DEVELOPMENT AUTHORITY

## NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Low-Income Housing Tax Credit Allocation

2) Code Citation: 47 Ill. Adm. Code 350

3) Section Numbers:

350.101	<u>Proposed Action:</u>
350.102	Amendment
350.104	Amendment
350.201	Amendment
350.202	Amendment
350.203	Amendment
350.204	Amendment
350.205	Amendment
350.206	Amendment
350.207	Amendment
350.208	Amendment
350.209	Amendment
350.210	Amendment
350.211	Amendment
350.212	Amendment
350.213	Amendment
350.214	New Section
350.215	New Section

4) Statutory Authority: Sections 7.24g, 7.19 and 7.25 of the Illinois Housing Development Act [20 ILCS 3805/7.24g, 7.19 and 7.25].

5) A Complete Description of the Subjects and Issues Involved: This Part sets forth the procedures for allocation of housing tax credit dollars under the Illinois Housing Development Authority's Tax Credit Program. The Tax Credit Program was created to comply with Federal law and to assist in acquisition, construction and rehabilitation of affordable single-family and multifamily rental housing for low-income households.

6) Will this rulemaking replace any emergency rulemaking currently in effect?  
Yes

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: These proposed amendments do not create, expand or modify a state mandate.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested parties may submit comments, data, views

## ILLINOIS HOUSING DEVELOPMENT AUTHORITY

## NOTICE OF PROPOSED AMENDMENT

or arguments concerning this rulemaking in writing to:

Richard B. Muller, Esq.  
401 N. Michigan Ave., Suite 900  
Chicago, Illinois 60611  
312/786-5327

The Authority will consider all written comments received at the above address within 45 days after the date of publication of this notice.

## 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: These proposed amendments will have a favorable impact on small to midsize real estate developers and contractors.
- B) Reporting, bookkeeping or other procedures required for compliance: No new requirements.
- C) Types of professional skills necessary for compliance: No new professional skills needed.

## 13) Regulatory Agenda on which this rulemaking was summarized: January 1997

The full text of these Proposed Amendments are identical to the text of the Emergency Amendments included in the issue of this issue of the Illinois Register.

## DEPARTMENT OF HUMAN RIGHTS

## NOTICE OF PROPOSED AMENDMENTS

## 1) Heading of the Part: Financial Institutions

## 2) Code Citation: 38 Ill. Adm. Code 800

Section Number:	Proposed Action:
800.10	Repealed
800.20	Repealed
800.30	Amendment
800.40	Amendment
800.50	Amendment
800.60	Amendment

## 4) Statutory Authority: Implementing Article 4 of the Illinois Human Rights Act [775 ILCS 5/Art. 4], and authorized by Section 7-101(A) of the Illinois Human Rights Act [775 ILCS 5/7-101(A)].

5) A Complete Description of the Subjects and Issues Involved: The proposed amendments delete the Department's rules which are duplicative of the Act, clarify the Department's regulations concerning financial institutions and delete provisions interpreting the Act when such provisions of the Act are better suited to judicial interpretation than interpretation through regulation.

## 6) Will this rulemaking replace any emergency rulemaking currently in effect? No

## 7) Does this rulemaking contain an automatic repeal date? No

## 8) Does this rulemaking contain incorporations by reference? No

## 9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: The proposed amendments would not require a local government to establish, expand, or modify its activities in such a way as to necessitate additional expenditures from local revenues.

## 11) Time, Place and Manner in which interested persons may comment on this Proposed rulemaking: Interested persons may submit comments to:

David T. Rothal  
Staff Attorney  
Illinois Department of Human Rights  
100 West Randolph Street  
Suite 10-100  
Chicago, IL 60601  
312/814-6242  
TDD: 312/463-1579





## DEPARTMENT OF HUMAN RIGHTS

## NOTICE OF PROPOSED AMENDMENTS

the applicant's age, permanent residence, immigration status, or any additional information if such inquiry is for the purpose of determining the amount and probable continuance of income levels, credit history, or other pertinent element of credit worthiness as provided in regulations of the Department under this exemption, the following inquiries are permissible for the purposes and under the circumstances indicated:

1) Age. A creditor may inquire into an applicant's age to ensure that the applicant has the legal capacity to enter into a binding contract if the inquiry is made of all applicants to assess from the applicant's occupation and probable length of time to retirement whether the applicant is of credit-worthy age to receive the applicant's support and the applicant's ability to determine the adequacy of the collateral offered to secure the transaction against the life expectancy of the applicant; or to evaluate the significance of the applicant's length of employment or residence; or a creditor may also inquire of an applicant's age in connection with an application for credit insurance to determine the conditions on which such insurance may be available to the applicant.

2) Permanent Residence and Immigration Status. A creditor may inquire into an applicant's permanent residence and immigration status to determine its rights and remedies regarding repayment, provided the inquiry is made uniformly of all applicants without regard to race, national origin, or other prohibited characteristic.

3) Gender Sex and Marital Status. A creditor may not request the sex of an applicant, but may request the designation of a title from among "Ms.", "Miss", "Mrs.", or "Mx.", if the designation is made clearly denominated as optional with the applicant. A creditor may not make inquiries related to the pregnancy of an applicant, or the likelihood of pregnancy.

4) Marital Status and Spousal Inquiries. If the application is for individual unsecured credit and the applicant does not reside in a community property state, the creditor may not request the applicant's marital status; otherwise, the applicant may be required to disclose marital status from among "Married", "Unmarried", and "Separated", and the creditor may explain that "Unmarried" applies to single divorced and widowed persons; "A creditor may not request information regarding an applicant's childbearing capacity or intentions or birth control practices; A creditor may, however, inquire about the number and ages of an applicant's dependents; about dependent-related financial obligations (e.g., medical and educational expenses attributable to the applicant's responsibility for a dependent); and about the applicant's ability to pay alimony or child support; if

## DEPARTMENT OF HUMAN RIGHTS

## NOTICE OF PROPOSED AMENDMENTS

such information is requested uniformly of all applicants without regard to sex or marital status or any other prohibited characteristics; A creditor may request the sex and marital status of an applicant in connection with an application for credit insurance for purposes of determining the conditions on which such insurance may be available to the applicant; A creditor may also request the marital status of an applicant for the limited purpose of ascertaining its rights and remedies regarding repayment.

4) Permissible Spousal Inquiries Information. A) A creditor may not request information concerning an applicant's spouse or former spouse only if: unless

i) the spouse will be permitted to use the account or

ii) the spouse will be contractually liable for the

iii) the applicant relies on the spouse's income or on alimony or ordered payments; or separate maintenance or child support from the spouse to repay the indebtedness; or

iv) the applicant resides in, or property securing the indebtedness is located in, a community property state.

If B) Where any of the above criteria is satisfied, the creditor may request information regarding the applicant's spouse only to the extent that such information may be requested about an applicant; the applicant may then be required to disclose marital status from among "Married", "Unmarried", and "Separated", and the creditor may explain that "Unmarried" applies to single, divorced and widowed persons under this section.

C) Indirect Spousal Inquiries. A creditor may inquire about the following information, but only if such information is requested of all applicants:

i) number and ages of an applicant's dependents;

ii) dependent-related financial obligations (e.g., medical and educational expenses attributable to the applicant's responsibility for a dependent); and

iii) applicant's ability to pay maintenance or child support;

iv) income from maintenance or child support, only if applicants are notified they need not disclose such income if they do not want it considered in evaluating their creditworthiness;

v) any account upon which the applicant is liable and the name(s) and address(es) in which the account is carried;

vi) names in which the applicant has previously received

## DEPARTMENT OF HUMAN RIGHTS

## NOTICE OF PROPOSED AMENDMENTS

## credit;

vii) whether any obligation disclosed by the applicant has a co-obligor; and  
viii) the ownership of assets upon which the applicant relies when applying for credit.

- 5) Source-of-income--A creditor shall advise applicants, before inquiring generally into their available income, that they need not disclose income derived from alimony, child support or pension payments if they do not desire that income considered in evaluating their creditworthiness. This advice is not required. Notating their creditworthiness, this advice is insufficiently specific, for example, the terms of the inquiry are income as to reasonably practicable disclosure of alimony child support or separate maintenance. A creditor may inquire of any of an applicant's listed income is derived from a public assistance program, to evaluate the likely continuation and future reliability of those payments, and to ascertain its rights and remedies regarding repayment, if the inquiry is made uniformly of all applicants without regard to a prohibited characteristic.

5)67 Handicap. A creditor may not inquire whether an applicant has a handicap. However, if \$5 an income listed by the applicant is derived from disability or public assistance benefits paid because of cessation by a handicap, however, the creditor may request information regarding the nature and duration of the handicap condition for purposes of evaluating the probable continuation and future reliability of that income. A creditor cannot inquire into an applicant's physical condition in connection with an application for credit insurance to determine the conditions on which such insurance may be available to the applicant.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

## Section 800.50 Empirically Derived Credit Systems

- a) The exemption in Section 4-104(B)(2) of the Act [775 ILCS 5/4-104(B)(2)] is defined in Section 4-104(B)(2) of the Act [775 ILCS 5/4-104(B)(2)] as an empirically derived credit system is a credit scoring system which evaluates an applicant's creditworthiness primarily by assigning points to key attributes of the applicant and other aspects of the transaction in such a system the points or weights assigned to each attribute and hence the entire score are derived from an empirical comparison of a sample group of the population of creditworthy and non-creditworthy applicants or the population of creditworthy and non-creditworthy applicants of a creditor who applied for credit within a reasonable preceding period of time and by determining alone or in conjunction

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with an evaluation of additional information about the applicant whether an applicant is deemed creditworthy. 2) The reasonableness of the time period from which comparisons are drawn must be determined by balancing consistently accepted statistical principles, the objective of maximizing sample size against the objective of minimizing contamination from state data by exemption. 3) Section 4-104(B)(2) of the Act provides that a financial institution or credit card issuer is not precluded from using any empirically derived credit system which considers age if such system is demonstrably and statistically sound in accordance with regulations of the Department except that in the operation of such system the age of an applicant over the age of 62 years may not be assigned a negative factor or value. 4) Note that this provision does not authorize the consideration of any prohibited characteristic other than age under the credit system and does not authorize the use of age only if where the system is demonstrably and statistically sound, which may be determined if 4) Meaning of Demonstrably and Statistically Sound--An empirically derived credit system shall be deemed demonstrably and statistically sound only where each of the following standards is satisfied:

- 1) Data Base. The data used in developing the system, if not consisting of the complete population of all credit applicants, must be drawn from the file of credit applicants using accepted statistical sampling principles.
- 2) Purpose. The system must be developed with the purpose of predicting positively the actual creditworthiness of applicants.
- 3) Validation. The system must be validated, according to accepted statistical principles, as distinguishing between creditworthy and non-creditworthy applicants at a statistically significant rate.
- 4) Revalidation. The system must be periodically revalidated as to its predictive ability using appropriate statistical principles, and be adjusted as necessary to maintain its predictive ability.

b) Use of data from other creditors. A creditor who uses a system used by another creditor, long as the system otherwise meets the requirements of paragraphs (4)-(6) of this Section, if the creditor is unable during the development process to validate the system based on its own credit experience in accordance with subsection (a)(3) paragraph (4)-(6) of this Section, it must validate the system as soon after implementation as sufficient credit experience becomes available. If the system fails this validity test, its use must immediately be suspended.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)



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## a) Exemption:

1) Section 4-104(C) of the Act provides that a financial institution is not precluded from refusing to extend credit to an applicant when required to do so by program expressly authorized by law for:

- A) a non-profit organization for the purpose of extending credit to a class of persons or
  - B) a credit assistance program administered by a non-profit organization for its economically disadvantaged members, or
  - C) a special purpose credit program offered by a profit-making organization to meet special social needs which meets standards prescribed by the Department in its regulations.
- 2) The following standards apply to this last class of special purpose credit programs: it should be noted that the exemption respecting them applies only to programs offered by financial institutions and not by credit card offerors and that it sanctions a refusal of credit which would otherwise violate the Act only where the refusal is actually required under the program.

a) b) Requisite Standards. A special purpose credit program is exempt from coverage of the Act sanctioned under Section 4-104(C)(3) of the Act [75 ILCS 5/4-104(C)(3)] only if it satisfies each of the following requirements:

- 1) Written Plan. The program is established and administered pursuant to a written plan which both identifies the classes of persons it is designed to benefit and sets forth the procedures and standards for extending thereby credit which extend credit to a class of persons who, under the standards of creditworthiness customarily used by the lender, either would probably not receive such credit or would receive it on probably less favorable terms (e.g., at a higher interest rate or for a shorter period) or with larger security requirements or the like than are ordinarily available to other applicants for similar types and amounts of credit.
- 2) Class Benefiting. The program is established and administered to extend credit to a class of persons who, under the standards of creditworthiness customarily used by the lender, either would probably not receive such credit or would receive it on probably less favorable terms (e.g., at a higher interest rate or for a shorter period) or with larger security requirements or the like than are ordinarily available to other applicants for similar types and amounts of credit.
- 3) Nondiscrimination. The program is established and administered so as not to discriminate against applicants on the basis of any characteristic prohibited under the Act, except to the extent that the class of persons benefiting from the program may be required to share one or more such characteristic(s) and that requirement is not a subterfuge for evading the purposes of the Act.

b) c) Inquiries into Common Characteristics. If a special purpose credit program meeting the requirements of this Section is established to benefit a class of persons sharing one or more characteristic(s) prohibited under the Act, the lender may inquire of any applicant for credit under that program regarding such prohibited characteristic(s), notwithstanding the provisions of Section 800.40 of this Part of the

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## regulations.

c) d) Inquiries into Financial Need. If financial need is one of the criteria for the extension of credit under a special purpose credit program meeting the requirements of this Section, the lender may inquire of applicants for credit under the program regarding marital status, spousal income and income from alimony child support separate maintenance, notwithstanding the provisions of Section 800.40 of this Part of these regulations.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF NATURAL RESOURCES

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- 1) Heading of the Part: Boat and Snowmobile Registration and Safety
- 2) Code Citation: 17 Ill. Adm. Code 2010
- 3) Section Number: Proposed Action:  
Amendments  
 2010.20  
Amendments  
 2010.30  
Amendments  
 2010.35  
Amendments  
 2010.80  
Amendments  
 2010.90  
New Section
- 4) Statutory Authority: Implementing and authorized by Sections 3-1, 3-2, 3-3, 4-1 and 9-1 of the Boat Registration and Safety Act (625 ILCS 45/3-1, 3-2, 3-3, 4-1 and 9-1) and the Snowmobile Registration and Safety Act (625 ILCS 40).
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to add language regarding registration of boats over the Internet and to eliminate old fee structure language.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect?  
No
- 7) Does this rulemaking contain an automatic renewal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rule may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price  
 Department of Natural Resources  
 524 S. Second Street  
 Springfield, IL 62701-1787  
 217/782-1809

- 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Boat and snowmobile dealers who voluntarily elect to enter the program.

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- B) Reporting, bookkeeping or other procedures required for compliance: Surety bond, inventory control, accurate record keeping, secure maintenance of codes. The periodic submission of registration reports and fees, rather than submission 15 days after sale, will ease the reporting and bookkeeping burden.
- C) Types of professional skills necessary for compliance: Must be able to access the Internet and type on a computer well enough to fill in blanks on a form.
- 13) Regulatory Agenda on which this rule was summarized: This rule was not included on either of the 2 most recent agendas because: The Department neglected to file a regulatory agenda on this Part.

The full text of the Proposed Amendments begins on the next page:



## DEPARTMENT OF NATURAL RESOURCES

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TITLE 17: CONSERVATION  
CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES  
SUBCHAPTER e: LAW ENFORCEMENT

## PART 2010

## BOAT AND SNOWMOBILE REGISTRATION AND SAFETY

## Section

- 2010.20 Form of Application for Boat Registration and Title  
2010.25 Form of Application for Snowmobile Registration  
2010.30 Numbering Pattern to be Used for Boat Registration  
2010.35 Numbering Pattern to be Used for Snowmobile Registration  
2010.40 Display of Number on Boats  
2010.45 Change of Address (Repealed)  
2010.50 Reports in Case of Accident  
2010.60 Statutory Authority (Repealed)  
2010.70 Renewals for Boat and Snowmobile Registration  
2010.80 Authorized Dealers  
2010.90

AUTHORITY: Implementing and authorized by Sections 3-1, 3-2, 3-3, 4-1 and 9-1 of the Boat Registration and Safety Act [625 ILCS 45/3-1, 3-2, 3-3, 4-1 and 9-1] and the Snowmobile Registration and Safety Act [625 ILCS 40].

SOURCE: Filed January 13, 1960; codified at 5 Ill. Reg. 10660; amended at 8 Ill. Reg. 7801, effective May 23, 1984; amended at 10 Ill. Reg. 9769, effective May 21, 1986; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

Section 2010.20 Form of Application Requirements for Boat Registration and Title

- a) The application form provided by the Department for the use of individuals in applying for a certificate of registration and title (if never issued) shall include the following:

- 1) Name and address of owner
- 2) Date of birth of owner
- 3) Hull I.D. Number
- 4) Present Coast Guard number (if any). Federal documentation papers shall be submitted with application.
- 5) Hull material (wood, steel, aluminum, fiberglass, inflatable, other)
- 6) Type of propulsion (outboard, inboard, sail, inboard/outdrive, other)
- 7) Type of fuel (gas, diesel, other)
- 8) Length of vessel
- 9) Make and year built (if known)
- 10) Horsepower of motor and boat colors (2)

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- 11) Statement as to use (pleasure, dealer, rental, manufacturer, other)

- 12) A certificate of origin, lienholder information if any

- 13) Signature of owner
- b) The signature of the applicant authorizes the Department to lower the remittance in the event personal check is submitted for an incorrect fee.

- c) For registrations processed through the Internet, the application form will contain fields for the dealer to include:

- 1) Registration Serial Number
- 2) Dealer ID Number

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 2010.30 Numbering Pattern to be Used for Boat Registration

- a) The identification patterns issued pursuant to the Boat Registration and Safety Act shall be divided into three parts. The first part shall consist of the letters "1P". The second part shall consist of not more than 4 four numerals. The third part shall consist of not more than 3 two letters, except that the letters "I", "O" and "Q" shall not be used.

- b) Each group of letters and numerals shall be separated by a hyphen or an equivalent space. As examples: 1P-1234-AA or 1P 1234 AA.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 2010.35 Numbering Pattern to be Used for Snowmobile Registration

- a) The identification patterns issued pursuant to the Snowmobile Registration and Safety Act shall be divided into three parts. The first part shall consist of the letters "1S". The second part shall consist of not more than 4 four numerals. The third part shall consist of not more than 3 two letters, except that the letters "I", "O" and "Q" shall not be used.

- b) Each group of letters and numerals shall be separated by a hyphen or an equivalent space. As examples: 1S-1234-AA or 1S 1234 AA.

- c) Display of the registration number on the snowmobile is not required.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 2010.80 Renewals for Boat and Snowmobile Registration

- a) Renewal fees for boats shall be as set out in Section 3-2 of the Boat Registration and Safety Act [625 ILCS 45/3-2].

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- b) the Department  
Dealers authorized by the Department to register watercraft or snowmobiles over the Internet will be issued inventory controllable registration decals to be issued to the watercraft or snowmobile owner at time of registration. Upon designated dates specified by the Department, these dealers will submit necessary reports and return decals to the Department. Failure on the part of the dealer to comply with the Boat Registration and Safety Decal (70 ILCS 45), including this part and the dealer agreement, shall be justification for the Department to cancel or void the registration over the Internet. Ability and immediacy will be assigned appropriate security data for authorized dealers. The dealer will be assigned appropriate security data for accessing the secured Internet application. Upon completing the registration application, the dealer will print out the completed registration application, obtain the necessary signatures on that document, and make 2 copies of the signed document. The originally signed copy of the application is to be submitted to the Department. One copy of the signed document is for the dealer's records and the other copy is for the customer. The dealer must also print out the registration card for the customer and add the registration number to the decals.
- d) Authorized dealers may charge a convenience fee not to exceed \$4.00 to cover the cost of the Internet transaction.
- e) No authorized dealer shall be required to remit any monies for registration decals stolen by means of forcible entry into the premises where the decals were kept, or destroyed by fire on premises where the decals were kept, if he or she submits a police or fire department report of the theft or fire, and a listing of the numbers of decals so stolen or destroyed.

(Source: Added at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- b) Renewal fees for snowmobiles shall be \$12.
- a) in order to separate the registration fee for equal distribution of processing boat renewals will be renewed as follows:  
1) Boat registration renewals processed in 1986 with the registrants last name beginning with A through O will be renewed for a two year period with a two year renewal registration. Anyone registering a boat with a two year renewal registration will receive a three year registration.  
2) Boat registration renewals processed in 1987 with the registrants last names beginning with A through O will receive a three year registration. Boat registrants with last names beginning with P through S will receive a two year renewal registration. Anyone registering a watercraft for the first time will receive a three year registration.  
3) The fee for a 2 year boat registration is \$4 and a 3 year boat registration is \$6.
- b) in order to separate the registration fee for equal distribution of processing snowmobile renewals will be renewed as follows:  
1) Snowmobile registration renewals processed for April 1, 1986 through 31, 1987 with the registrants last name beginning with A through O will be renewed for a two year period. Those snowmobile registrants with last names beginning with P through S will receive the three year registration. All applicants registering a snowmobile for the first time will receive a three year registration.  
2) Snowmobile registration renewals processed from April 1, 1987 to March 31, 1988 with the registrants last names beginning with A through O will receive a three year registration. Snowmobile registrants with last names beginning with P through S will receive a two year renewal registration. Anyone registering a snowmobile for the first time will receive a three year registration.  
3) The fee for a 2 year snowmobile registration is \$8 and a 3 year snowmobile registration is \$12.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 2010.90 Authorized Dealers

- a) Dealers who wish to become authorized to register boats via the Internet must:  
21) Make a request in writing  
21) Advise the number of boats sold the previous year  
21) Enter into a contract with the Department  
41) Provide a bond of surety in an amount and form satisfactory to

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B) Reporting, bookkeeping or other procedures required for compliance:  
N/A

C) Types of professional skills necessary for compliance: N/A

13) Regulatory Agenda on which this rule was summarized: This rule was not included on either of the 2 most recent agendas because: The Department neglected to file a regulatory agenda on this Part.

The full text of the Proposed Amendments begins on the next page:

1) Heading of the Part: Camping on Department of Natural Resources Properties

2) Code Citation: 17 Ill. Adm. Code 130

3) Section Numbers:  
130.50 Proposed Action:  
130.60 Amendments  
130.70 Amendments  
130.80 Amendments

4) Statutory Authority: Implementing and authorized by Sections 1, 4(1), and 4(3) of the State Parks Act (20 ILCS 85/1, 4(1) and 4(3)), and by Sections 634.3 and 634.4 of the Civil Administrative Code of Illinois (20 ILCS 805/634.3 and 634.4).

5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to add language on a pilot project involving campground reservations at Starved Rock State Park; add language allowing campers to stay longer than the current 14 day limit at selected campsites; and add language regarding the refund of reservation fees.

6) Will this rulemaking replace any emergency rulemaking currently in effect?  
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rule may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price  
Department of Natural Resources  
524 S. Second Street  
Springfield, IL 62701-1787  
217/782-1809

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: N/A

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TITLE 17: CONSERVATION  
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES  
SUBCHAPTER a: LANDS

## PART 130

## CAMPING ON DEPARTMENT OF NATURAL RESOURCES PROPERTIES

Section	Location
130.10	Purpose of Campground
130.20	Classification of Camps by Equipment Used - Definitions
130.30	Definition of a Camp
130.40	Registration
130.50	Permits, Extensions and Time Limits
130.60	Fees and Charges
130.70	Refunds
130.80	Check-in and Check-out Times
130.90	Unoccupied Camps
130.100	Vehicles per Camp (Refer to 17 Ill. Adm. Code Section 130.30)
130.110	Youth Group (Boy Scouts, Girl Scouts, Explorers, church groups, or others)
130.120	Organization Group Camps (charter organizations, ROTC, private clubs or others)
130.130	Campground Host Program
130.140	Use of Campground
130.150	Eviction

**AUTHORITY:** Implementing and authorized by Sections 1, 4(1), and 4(5) of the State Parks Act [20 ICs 935/2, 4(1) and 4(5)], and by Sections 63a23 and 63a28 of the Civil Administrative Code of Illinois [20 ICs 905/63a23 and 63a28].

**SOURCE:** Adopted at 4 Ill. Reg. 7, p. 110, effective February 4, 1980; amended at 5 Ill. Reg. 5707, effective June 1, 1981; amended at 5 Ill. Reg. 10623, effective January 5, 1981; amended at 5 Ill. Reg. 14569, effective December 9, 1981; amended at 6 Ill. Reg. 3840, effective March 31, 1982; amended at 6 Ill. Reg. 9626, effective July 21, 1982; amended at 6 Ill. Reg. 14835, effective November 24, 1982; amended at 7 Ill. Reg. 5870, effective April 22, 1983; amended at 8 Ill. Reg. 5647, effective April 16, 1984; amended at 9 Ill. Reg. 6173, effective April 23, 1985; amended at 9 Ill. Reg. 11594, effective July 16, 1985; amended at 10 Ill. Reg. 9777, effective May 21, 1986; amended at 10 Ill. Reg. 12444, effective July 28, 1986; amended at 11 Ill. Reg. 9506, effective May 15, 1987; amended at 14 Ill. Reg. 12402, effective July 20, 1990; emergency amendment at 16 Ill. Reg. 7925, effective May 11, 1992, for a maximum of 150 days; emergency expired October 8, 1992; amended at 16 Ill. Reg. 15982, effective October 2, 1992; amended at 18 Ill. Reg. 1126, effective January 18, 1994; amended at 19 Ill. Reg. 6462, effective April 28, 1995; amended at 20 Ill. Reg. 6683, effective May 6, 1996; amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

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## Section 130.50 Registrations

- A permit will be issued and fees collected at the time the camp is established or as soon as possible thereafter (see Sections 130.70 and 130.80).
- The camping attendant has the authority to assign sites.
- A responsible adult (18 years of age or older) from the camping party must register for the party and thereby acknowledge compliance to the rules and regulations of the park for the party.
- Curfew: the provisions of Section 1 of the Child Curfew Act [720 ICs 555/1] with reference to curfew for persons under the age of 17 years are in effect on Department of Natural Resources' properties.
- The camp shelter or any other camping equipment shall not be brought into the park prior to the start of the camping party.
- No camping equipment shall be placed on any ground site while that site is occupied by another camping party. A person acquiring a permit must have camp shelter at the time of registration and must occupy the site at that time.
- In "emergency situations", the camping attendant may designate an area and charge a fee commensurate with facilities provided (see Section 130.70).
- Reservations will be accepted at selected sites offering this service. An additional \$5.00 non-refundable fee must be submitted for each site reserved. At Starved Rock State Park, the applicable first night's camping and utility fee is required at the time reservation is made for individual campsite reservations. At Starved Rock State Park, the reservation fee insures that a reserved campsite will be held until 3:00 p.m. of the next day assuring reservation holders of a campsite in the event of late arrival.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

## Section 130.60 Permits, Extensions and Time Limits

- A camp permit may be issued for a period not to exceed 14 consecutive nights between the dates of May 1 through September 30. Persons are eligible to camp at a specific Department of Natural Resources' facility for a maximum of 14 nights in a 30 day period between the dates of May 1 through September 30. During this period, sites with designated long term campsites can allow campers to register for up to 30 days in a 45 day period. The 30 and 45 day period starts from the first day the person actually obtains a bona fide camping permit and the camping equipment involved is subject to these limitations also. From October 1 through April 30, a camping permit may be issued for an unlimited number of nights during this time period.
- Exceptions to the above time limit may be made in the following instance: in bona fide emergency cases involving serious illness or

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accident which makes compliance with the rules impossible and only for the duration of the emergency - the burden of proof is on the permittee and the Site Superintendent should be satisfied by investigation or inquiry that facts in the case warrant consideration before granting an extension.

- c) During periods when a vacancy occurs in the reservation schedule at the Pere Marquette group camps, day use shall be allowed during a twelve-hour period beginning at 9:00 a.m. and ending at 9:00 p.m. Reservations will be made by application to the site superintendent. (Application requirements: name of organization, address, number of campers, person in charge, phone number, and age of campers.)

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 130.70 Fees and Charges

- a) The full amount of the camping fee and, if applicable, the utility fee shall be collected at the time the permit is issued. If checks are taken, they shall be made payable to the Illinois Department of Natural Resources and the site identified. Camping fees vary in accordance with the degree of campground development and type of facilities available effective May 11, 1992 as follows:

- 1) Spring - Summer Camping (May 11 through September 30)
  - A) Class A Sites: Camping fee of \$8.00 per night per site, \$3.00 utility fee. Sites having availability to showers, electricity and vehicular access.
  - B) Class B-2 Sites: Camping fee of \$7.00 per night per site, \$3.00 utility fee. Sites having availability to electricity and vehicular access.
  - C) Class B-3 Sites: Camping fee of \$8.00 per night per site, \$3.00 utility fee. Sites having availability to electricity and vehicular access.
  - D) Class C Sites: Camping fee of \$7.00 per night per site. Sites having vehicular access or tent camp/primitive sites (walk-in or backpack) having availability to showers.
  - E) Class D Sites: Camping fee of \$6.00 per night per site. Tent camping or primitive sites (walk-in or backpack) with no vehicular access.
  - F) Youth Group Camping: \$1.00 per person, minimum daily camping fee of \$10.00.
  - G) Adult Group Camping: \$3.00 per person, minimum daily camping fee of \$30.00.
  - H) Each member of an organized group utilizing facilities furnished at Dixon Springs State Park and Pere Marquette State Park shall pay a fee of \$4.00 per night. At Dixon Springs, a deposit of \$40.00 per night will be required before confirmation of a reservation. At Pere Marquette, a deposit of \$100 will be required before confirmation of a

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reservation. The deposits will be credited to the total camping fee. Fees for day use of the group camps at Dixon Springs and Pere Marquette shall be \$45.00 per day.

- 1) Rent-A-Camp Sites will be made available at designated state parks and recreational areas throughout the department's statewide system. These designated areas will provide, at additional fees of \$8.00 and \$12.00 per night, one large tent (approximately 10' x 13') or one extra large tent (approximately 14' x 14'), respectively (erected), with wood floor, one charcoal grill, one picnic table, one trash barrel, and either 4 sleeping cots per large tent or 8 sleeping cots per extra large tent. The total overnight fee for the tent and the site will be the same as the fee for the \$8.00 or \$12.00 per night in addition to the fee for the class of the camping site A through D on which the rent-a-camps are located, as follows:
  - i) Rent-A-Camp at Class A Sites: \$16.00 or \$20.00 plus \$3.00 utility fee per night per site at all sites having availability to showers, electricity and vehicular access.
  - ii) Rent-A-Camp at Class B-2 Sites: \$15.00 or \$19.00 plus \$3.00 utility fee per night per site at all sites having availability to electricity and vehicular access.
  - iii) Rent-A-Camp at Class B-3 Sites: \$16.00 or \$20.00 per night per site at all sites having availability to showers and vehicular access.
  - iv) Rent-A-Camp at Class C Sites: \$15.00 or \$19.00 per night per site at all sites having vehicular access.
  - v) Rent-A-Camp at Class D Sites: \$16.00 or \$20.00 per night per site at all sites having no vehicular access. Sites (walk-in or backpack) with no vehicular access sites must be remitted at those facilities offering reservation services. This fee applies to reservations for group camp sites as well as individual site reservations. At Starved Rock State Park, the applicable first night's camping and utility fee is required at the time reservations are made for individual campsite reservations.
- 2) Fall - Winter Camping (October 1 through April 30)
  - A) As long as buildings, water and electrical service are available, regardless of the date, the regular camping fee will apply.
  - B) When cold weather requires closing down buildings and shutting off water in Class A campgrounds, the fee shall be reduced commensurate with the services and facilities

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available for use.

- C) When a change in facilities is made and a campsite is reclassified, the fee for a site will change automatically.

b) Exceptions: Employees, Concessionaires, and Special Legislation  
1) Except for temporary employees of the Department of Natural Resources who qualify and are placed in the campground host program at approved camping sites, employees of the Department of Natural Resources or any other State state agency, regardless of their official status, will be required to pay the established camping fee.

2) The concessionaire, manager, or a responsible employee designated by the concessionaire will not be charged the regular camping fee. Rent will be paid at the rate established by the Department or pursuant to the concession lease.

3) An Illinois resident age 62 or older, or a person who has a Class A Identification Card Act [15 ILCS 335(a)] or disabled veteran or a former prisoner of war as defined in Section 5 of the Department of Veterans Affairs Act (20 ILCS 2805/5), is entitled to the following camping fee provisions, upon qualifying, which will allow the spouse or minor (under 18) children, or minor grandchildren to be included in the camping party. All other members must be registered and pay the regular camping fee for the facilities provided.

A) Illinois residents age 62 or older will be charged one-half the established camping fee on any Monday, Tuesday, Wednesday or Thursday, at Class A and B sites but must pay the entire established camping fee on all sites on any Friday, Saturday or Sunday, and, if at a site with utilities, must pay the entire utility fee for each day of camping. Verification of age may be made by any document required by law to establish proof of age and date of birth and issued by a federal or state governmental agency. No fee on Class C and D sites Monday through Thursday.

B) Illinois residents who have a Class 2 disability and present a valid Illinois Disabled Veterans Identification Card issued by the Secretary of State will be charged one-half the established camping fee for Class A and B sites on any Monday, Tuesday, Wednesday, or Thursday, but must pay the entire established camping fee for any Friday, Saturday or Sunday, and, if at a site with utilities, must pay the entire utility fee for each day of camping. No fee on Class C and D sites.

C) An Illinois resident who is a disabled veteran, or former prisoner of war may camp without being charged a camping fee, but if at a site with utilities, must pay the entire utility fee for each day of camping. An individual wishing

## DEPARTMENT OF NATURAL RESOURCES

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to qualify for free camping under the provisions stated above must be able to submit the appropriate document issued by the Illinois Department of Veterans' Affairs (see 20 ILCS 2805/5).

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 130.80 Refunds

- a) A refund of camping and utility fees for unused time shall be made upon the request of the registered camper. No personal check refunds shall be made sooner than 10 days after the check has been deposited to insure clearance. Refunds will be made in the field out of current cash receipts. Refunds for Camper's Permit will be prepared and appropriate copies submitted to accounting.
- b) Refund forms must be completed and submitted to accounting.
- c) The unused portion of a camper's camping permit.
- d) The person requesting the refund must show identification at the time of the refund.
- e) The camper's copy of the permit must be surrendered at the time of the refund.
- f) The camper's copy of the permit must be surrendered at the time of the refund.
- g) Rent-A-Camp reservation deposits will not be refunded by the Department.
- h) No refunds will be made for reservation fees unless the campground is closed by the Department.
- i) The deposit required for organized group camps at Pere Marquette and Dixon Springs will be non-refundable unless notice of cancellation is received by 30 days prior to reservation date.
- j) There is no refund of the first night's camp-in and utility fee made as part of a campsite reservation that is canceled less than 3 days prior to the date of arrival.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: White-Tailed Deer Hunting by Use of Firearms

- 2) Code Citation: 17 Ill. Adm. Code 650

- 3) Section Numbers: 650.20  
Proposed Action:  
Amendments

- 4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36].

- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to add language indicating that no individual may apply for or receive more than 2 either-sex permits for the 1997 season.

- 6) Will this rulemaking replace any emergency rulemaking currently in effect?  
No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this rulemaking contain incorporations by reference? No

- 9) Are there any other proposed rulemakings pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
650.21	Amendments	21 Ill. Reg. 531.1/10/97
650.40	Amendments	21 Ill. Reg. 531.1/10/97
650.60	Amendments	21 Ill. Reg. 531.1/10/97

- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rule may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price  
Department of Natural Resources  
524 S. Second Street  
Springfield, IL 62701-1787  
217/782-1809

- 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: N/A

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

- B) Re-opening, bookkeeping or other procedures required for compliance:  
N/A

- C) Types of professional skills necessary for compliance: N/A

- 13) Regulatory Agenda on which this rule was summarized: January 1997

The full text of the Proposed Amendments begins on the next page:

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 17: CONSERVATION

## CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

## SUBCHAPTER b: FISH AND WILDLIFE

## PART 650

## WHITES-TAILED DEER HUNTING BY USE OF FIREARMS

## Section

- 650.20 Statewide Deer Permit Requirements
- 650.21 Deer Permit Requirements - Landowner/Tenant Permits
- 650.22 Deer Permit Requirements - Special Hunts
- 650.23 Deer Permit Requirements - Group Hunt
- 650.24 Statewide Requirements
- 650.30 Statewide Requirements
- 650.40 Regulations of Application/Revocation of Permits
- 650.50 Regulations at Various Department-Owned or -Managed Sites
- 650.55 Youth Hunt
- 650.65 Special Hunts for Disabled Hunters
- 650.70 Special Extended Season Firearm Deer Hunt (Repealed)

**AUTHORITY:** Implementing and authorized by Sections 1-3, 1-4, 1-13, 2-24, 2-25, 2-26 and 3-36 of the Wildlife Code (520 ILCS 5/1.3, 1-4, 1-13, 2-24, 2-25, 2-26 and 3-36).

**SOURCE:** Adopted at 5 Ill. Reg. 9771, effective September 17, 1981; codified at 5 Ill. Reg. 10640; amended at 6 Ill. Reg. 10730, effective August 20, 1982; amended at 7 Ill. Reg. 10798, effective August 24, 1983; amended at 8 Ill. Reg. 21602, effective October 23, 1984; amended at 9 Ill. Reg. 16213, effective October 10, 1985; emergency amendment at 9 Ill. Reg. 20922, effective December 18, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 4223, effective February 25, 1986; amended at 10 Ill. Reg. 16665, effective September 22, 1986; amended at 11 Ill. Reg. 3047, effective February 3, 1987; amended at 11 Ill. Reg. 18564, effective February 11, 1987; amended at 11 Ill. Reg. 19086, effective April 25, 1988; amended at 12 Ill. Reg. 12055, effective February 1, 1989; amended at 13 Ill. Reg. 12853, effective July 21, 1989; amended at 14 Ill. Reg. 12430, effective July 20, 1990; amended at 14 Ill. Reg. 19869, effective December 3, 1990; amended at 15 Ill. Reg. 10038, effective June 24, 1991; emergency amendment at 15 Ill. Reg. 15790, effective October 22, 1991, for a maximum of 150 days; emergency expired March 21, 1992; amended at 16 Ill. Reg. 11131, effective June 30, 1992; amended at 17 Ill. Reg. 13468, effective July 30, 1993; amended at 18 Ill. Reg. 5859, effective April 5, 1994; amended at 18 Ill. Reg. 13431, effective August 23, 1994; amended at 19 Ill. Reg. 6477, effective April 28, 1995; amended at 20 Ill. Reg. 7515, effective May 20, 1996; amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 650.20 Statewide Deer Permit Requirements

- a) Illinois resident hunters must have a current, valid "Firearm Deer

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

**Permit** (\$15.00). Deer permit fees for non-resident firearm deer hunters shall be \$100.00 for each eligible firearm permit and \$25.00 for each antlerless-only permit. No individual may apply for or receive more than 2 either-sex permits (including landowner either-sex firearm permits, full-season either-sex firearm permits, second-season either-sex firearm permits, and either-sex muzzleloading permits) for use during all gun deer seasons (both firearm and muzzleloading). A permit is issued for one county or special hunt area and is valid only in the county or special hunt area stated on the permit. Only applicants who receive an eligible permit in a county or special hunt area are eligible for an antlerless-only permit for that county or special hunt area, except in counties that are specially designated for more intensive removal of does in a given year. These counties will be identified prior to the second random daily drawing, and a limited number of antlerless-only permits will be made available regardless of whether applicants already possess an either-sex permit. For more information, see the Department of Natural Resources website.

(Firearm or Landowner/Tenant or Non-Resident)

Deer Permit Office

524 South Second Street, Room 210

P.O. Box 19227

Springfield, Illinois 62794-9227

- b) Applications from residents will be accepted through the last weekday in April of the current year. Applications received after the last weekday in April will not be included in the lottery. Permits will be allocated in a computerized random drawing in which only one choice of hunt area or county will be considered. Permits will be issued as either sex, antlerless only, or antlered only. A maximum of one eligible and one antlerless-only permit shall be issued per person. Applicants for free or paid landowner/tenant permits are not eligible to participate in the lottery or the first random daily drawing period. Landowners who receive permits in the lottery or first random daily drawing period are not eligible for landowner permits to accept a permit. Applicants must check the second-season box if they agree to accept a permit upon winning the lottery or first random drawing. Applicants must check the antlerless-only box and enclose an additional \$15.00 (\$25.00 for non-residents) if they want to apply for an antlerless-only permit. Antlerless-only permits will be issued until the antlerless-only quota is filled for a given county or special hunt area.
- c) Permits for counties and special hunt areas with unfilled quotas after the lottery will be allocated in a Random Daily Drawing procedure. Applications for Random Daily Drawing will be accepted beginning August 1 and ending on the tenth weekday in August of the current year. Applicants may also apply for remaining antlerless-only permits by checking the antlerless-only box and enclosing an additional \$15.00. Applications received prior to August 1 will be processed in



## DEPARTMENT OF NATURAL RESOURCES

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the first daily drawing. A list of unfilled counties and special hunt areas will be announced prior to the August application dates. Applicants must apply on a current year Firearm Deer Permit application form. All applications for the Random Daily Drawing will be processed individually. This application period is open only to those applicants who were not previously issued firearm permits for the current hunting season. A maximum of one eligible and one antlerless-only permit shall be issued per person. Antlerless-only permits and antlerless-only permits shall receive equal treatment in the drawings. For the Random Daily Drawing, applicants received one day will be processed until all applications received for that day are mixed. All applications received on a specific day will be processed before processing applications received for a subsequent day.

g) Applicants must complete all portions of the current year permit application form. Incomplete or incorrect applications will be returned along with the applicant's permit fee for correction or completion if received in this office prior to the last weekday in April of the current year. No more than 6 single applications per envelope will be accepted. Each applicant must submit a separate personal check or money order. Separate envelopes must be used to send permit applications to the Deer Permit Office for firearms, archery, and free or paid landowner/tenant permits.

h) Applications for non-resident firearm permits will be accepted beginning August 1 and will be included with the residents in the Random Daily Drawing. Applications received prior to August 1 will be processed in the first daily drawing.

i) There will be an application period which starts September 1 and ends the fifth weekday in November, during which anyone (regardless of any other permit they may have) subject to the restriction in subsection (a)(3) can apply for a permit. During this period, the permit application will be processed in a random daily drawing. Applicants can apply for one or more permits during this application period. Full-season antlerless-only permits shall only be issued to successful applicants that have full-season either-sex permits in the county applied for. Second-season antlerless-only permits shall be issued to successful applicants that have either full-season or second-season eligible permits in the county applied for. Applicants submitting applications after October 24 cannot be guaranteed a permit by the start of the first deer hunting season. Applicants must print "September 1-Multiple Permits" on the outside of the envelope and mark the "September 1-Multiple Permits" box on the firearm deer permit application.

j) Hunter preference in obtaining a permit will be given to unsuccessful lottery applicants from the previous year who did not receive an either-sex permit due to the counties of their choice being full or to applicants that received, in the previous year, a second season eligible permit in the lottery only. In order to be eligible for

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lottery preference, the second season box must have been checked on the application form of unsuccessful applicants when they were rejected. Preference will not be granted to applicants who received a full-season either-sex permit but who did not receive an antlerless-only permit. Persons with lottery preference will have first chance at receiving available either-sex permits. The following criteria must be met to obtain a preference in the permit lottery:

- 1) The applicant must apply using the official DEPARTMENT agency application.
- 2) The applicant must be a resident of the State state, be eligible to receive a Firearm Deer Permit, and have had deer hunting privileges revoked pursuant to Section 650.50.
- 3) The applicant must apply for the same county or choice which he/she listed on the previous year's application. Preference will not be granted for special hunt areas.
- k) Applications may be accepted at the counter window of the permit office; however, permits will be mailed.
- l) Permits are not transferable. Refunds will not be granted, unless the Department of Natural Resources ~~(Department)~~ has erroneously issued the permit after the quota has been depleted or where the applicant was unsuccessful in obtaining a permit.
- m) A three-dollar-\$3.00 service fee will be charged for replacement permits issued by the Department, except when permits are lost in the mail, then there will be no charge. Monies derived from this source will be deposited in the Wildlife and Fish Fund.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: White-Tailed Deer Hunting Season by Use of Muzzleloading Rifles

2) Code Citation: 17 Ill. Adm. Code 660

3) Section Numbers: 660.20  
Proposed Action: Amendments

4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.24, 2.25, 2.26, 2.33 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.24, 2.25, 2.26, 2.33 and 3.36].

5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to add language indicating that no individual may apply for or receive more than 2 either-sex permits; add language indicating that except in counties that are specially designated for more intensive removal of does in a given year, applicants who receive an either-sex permit in a county or special hunt area are eligible for an antlerless-only permit for that county or special hunt area; and add language that these counties will be identified prior to the second random daily drawing, and a limited number of antlerless-only permits will be made available regardless of whether applicants already possess an either-sex permit.

6) Will this rulemaking replace any emergency rulemaking currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
660.22	Amendments	21 Ill. Reg. 542, 1/10/97
660.40	Amendments	21 Ill. Reg. 542, 1/10/97
660.60	Amendments	21 Ill. Reg. 542, 1/10/97

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rule may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price  
Department of Natural Resources  
524 S. Second Street

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Springfield, IL 62701-1787  
217/782-1809

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: N/A

B) Reporting, bookkeeping or other procedures required for compliance: N/A

C) Types of professional skills necessary for compliance: N/A

13) Regulatory Agenda on which this rule was summarized: January 1997

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES  
NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION  
CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES  
SUBCHAPTER b: FISH AND WILDLIFE

PART 660  
WHITE-TAILED DEER HUNTING SEASON BY USE  
OF MUZZLELOADING RIFLES

Section  
660.10 Statewide Season and Permit Quotas  
660.20 Statewide Deer Permit Requirements  
660.21 Deer Permit Requirements - Free Landowner/Tenant Permits  
660.22 Deer Permit Requirements - Special Hunts  
660.25 Deer Permit Requirements - Group Hunt  
660.30 Statewide Muzzleloading Rifle Requirements  
660.40 Statewide Deer Hunting Rules  
660.40 Reporting Harvest  
660.50 Revocation/Revocation of Permits  
660.50 Regulations at Various Department-Owned or -Managed Sites  
660.50

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.24, 2.25, 2.26, 2.33 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.24, 2.25, 2.26, 2.33 and 3.36].

SOURCE: Adopted at 15 Ill. Reg. 4777, effective March 18, 1991; amended at 11 Ill. Reg. 11627, effective August 2, 1994; amended at 16 Ill. Reg. 11150, effective June 30, 1992; amended at 17 Ill. Reg. 10865, effective July 1, 1993; amended at 18 Ill. Reg. 5878, effective April 5, 1994; amended at 18 Ill. Reg. 13435, effective August 23, 1994; amended at 19 Ill. Reg. 6500, effective April 28, 1995; amended at 20 Ill. Reg. 6734, effective May 6, 1996; amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

Section 660.20 Statewide Deer Permit Requirements

- a) Illinois resident hunters must have a current, valid "Muzzleloading Rifle Deer Permit" (\$15.00). Muzzleloading rifle deer permit fees for non-residents may be \$100.00 for each either-sex muzzleloading rifle deer permit and \$25.00 for each antlerless-only permit. No individual may apply for more than one muzzleloading rifle deer permit. Individuals may apply for a cooperative muzzleloading rifle deer permit (including landowner either-sex firearm permits, full-season either-sex firearm permits, second-season either-sex firearm permits, and either-sex muzzleloading permits) for use during all gun deer seasons (both firearm and muzzleloading). A permit is issued for one county and is valid only in the county stated on the permit. Only applicants who receive an either-sex permit in a county or special hunt area are eligible for an antlerless-only permit for that county or special hunt area, except in counties that are specially designated for more intensive removal of does in a given year. These counties will be

DEPARTMENT OF NATURAL RESOURCES  
NOTICE OF PROPOSED AMENDMENTS

identified prior to the second random daily drawing, and a limited number of antlerless-only permits will be made available regardless of whether applicants already possess an either-sex permit. For permit applications and other information write to:

Department of Natural Resources  
(Muzzleloading Rifle)  
Deer Permit Office  
524 South Second Street, Room 210  
P.O. Box 19227  
Springfield, IL 62794-9227

- b) Applications from residents shall be accepted through the last weekday in April of the current year. Applications received after the last weekday in April shall not be included in the lottery. Permits shall be allocated in a computerized random drawing in which only one choice of hunt area or county shall be considered. Permits shall be issued as either-sex, antlerless-only or antlered only. A maximum of one either-sex and one antlerless-only permit shall be issued per person. An additional \$15.00 must be added to the permit fee for an additional antlerless-only permit. Antlerless-only permits will be issued until the antlerless-only quota is filled for a given county or special hunt area.
- d) Permits for counties with unfilled quotas after the lottery shall be allocated in a random drawing procedure. Applications for the random daily drawing shall be accepted beginning August 1 and ending on the tenth weekday in August of the current year. Applicants may also apply for remaining antlerless-only permits by checking the antlerless-only box and enclosing an additional \$15.00. Applications received prior to August 1 will be processed in the August 1 daily drawing. A list of unfilled counties shall be announced prior to the August application dates. Applicants must apply on a current year "Muzzleloading Rifle" Deer Permit application form. All applications for the random daily drawing shall be processed individually. This application period is open only to those applicants who were not previously issued firearm permits for the current hunting season, except as provided in Section 660.20(d). A maximum of one either-sex and one antlerless-only permit shall be issued per person. An additional \$15.00 must be added to the permit fee for an additional antlerless-only permit. Antlerless-only permits may apply for an antlerless-only permit for the county specified on their either-sex permit beginning September 1. Applicants shall complete an application form, provide a photocopy of their either-sex permit, and enclose a check for \$15.00 (\$25.00 for non-residents).
- f) In-person and mail-in applications shall receive equal treatment in the drawings. For the random daily drawing, applications received one day shall not be processed until all applications received for that

## DEPARTMENT OF NATURAL RESOURCES

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day are mixed. All applications received on a specific day shall be processed before processing applications received for a subsequent day.

- g) Applicants must complete all portions of the current year permit application form. Incomplete or incorrect applications shall be returned along with the applicant's permit fee for correction or completion if received in this office prior to the last weekday in April of the current year. No more than 6 single applications per envelope shall be accepted. Each applicant must submit a separate personal check or money order. Separate envelopes must be used to send permit applications to the Deer Permit Office for regular firearm, muzzleloading rifle, archery, and free or paid landowner/tenant permits.

- h) Applications for non-resident muzzleloading rifle firearm permits shall be accepted beginning August 1 and will be included with the residents in the Random Daily Drawing.

- i) There will be an application period which starts September 1 and ends the fifth weekday in November during which anyone (regardless of any other permit they may have) subject to the restriction in subsection (a) can apply for muzzleloading deer permits (\$15.00 fee) left over from the county hunter education classes. During this application period, the permits shall be issued on a random daily drawing basis. Applicants can apply for one or more permits during this application period. Full season antlerless-only permits shall only be issued to successful applicants that have full season either-sex permits for that county. Applicants submitting applications after October 24 cannot be guaranteed a permit by the start of the second firearm deer hunting season. Applicants must print "September 1-Multiple Muzzleloader Permits" on the outside of the envelope and mark the "September 1-Multiple Permits" box on the muzzleloading rifle deer permit application.

- j) Hunter preference in obtaining a muzzleloading rifle permit shall be given to unsuccessful lottery applicants from the previous year who were unsuccessful due to the county of their choice being full. The following criteria must be met to obtain a preference in the muzzleloading rifle permit lottery.

- 1) The applicant must apply using the official agency preprinted data-mailer application.
- 2) The applicant must be a resident of the state, be eligible to receive a Muzzleloading Rifle Deer Permit, and not had deer hunting privileges revoked pursuant to Section 660.30.
- 3) The applicant must not have been in the county choice which he/she listed on the previous year's application.
- 4) Where applicants apply as a group, preference for the entire group shall apply as it does above for the individual. All county choices for the group must be identical.

- k) Applications shall be accepted at the counter window of the permit office; however, permits shall be mailed.

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- l) permits are not transferable. Refunds shall not be granted unless the Department of Natural Resources (Department) has erroneously issued the permit after the quota has been depleted or where the applicant was unsuccessful in obtaining a permit.

- m) A three-dollar (\$3.00) service fee shall be charged for replacement permits issued by the Department, except when permits are lost in the mail, then there shall be no charge. Monies derived from this source shall be deposited in the Wildlife and Fish Fund.

- n) Each applicant must enclose a separate \$15.00 (check or money order) payable to the Department of Natural Resources, or the application shall be returned. Applications should not send cash with the application. The Department shall not be responsible for cash sent through the mail.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Rights and Responsibilities
- 2) Code Citation: 89 Ill. Adm. Code 102
- 3) Section Numbers: Proposed Action:  
102.70 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Complete Description of the Subjects and Issues Involved: The Department of Public Aid is instituting a new policy manual with a new numbering system in March 1997. These proposed amendments provide that references to provisions of the policy manual using the previous numbering system will be deemed to refer to the parallel provisions of the new policy manual while the new numbering system is being implemented. Since the Department is required to include references to the provisions of its policy manual in notices to clients, this rulemaking is necessary to insure compliance with this requirement during the transition to the new numbering of the new policy manual.

6) Will these proposed amendments replace emergency amendments currently in effect? Yes

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
102.21	Amendment	March 7, 1997 (21 Ill. Reg. 2924)
102.270	Amendment	January 24, 1997 (21 Ill. Reg. 1171)
102.280	Amendment	January 24, 1997 (21 Ill. Reg. 1171)

10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

11) Time, Place, and Manner in which Interested Persons may Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Judy Umunnia  
Bureau of Rules and Regulations  
Illinois Department of Public Aid  
100 South Grand Ave., E., 3rd Floor

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

Springfield, IL 62762  
(217) 524-0081

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because: It was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of the Proposed Amendments is identical to the text of the emergency rulemaking that appears at page \_\_\_\_\_ of this issue of the Illinois Register.

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Fees and Taxes
- 2) Code Citation: 92 Ill. Adm. Code 1205
- 3) Section Numbers: Adopted Action  
1205.400 New Section
- 4) Statutory Authority: Implementing and authorizing by Sections 18c-1202(9), 18c-1301, and 18c-1502 of the Illinois Commercial Transportation Law [625 ICS 5/18c-1202 (9), 18c-1301 and 5/18c-1502].
- 5) Effective Date of Amendment: March 13, 1997
- 6) Does this rulemaking contain an automatic repeal date? Yes, January 1, 1998.
- 7) Does this amendment contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: March 11, 1997
- 9) Notice of Proposal Published in Illinois Register: October 18, 1996, at 20 Ill. Reg. 13481.
- 10) Has JCPR issued a Statement of Objections to this amendment? No
- 11) Differences(s) between proposal and final version: The first sentence of 1205.400 has been changed to read: "Notwithstanding any other provision of this Part, the following fees will be in effect until January 1, 1998".  
In Subsection (b)(1) the first sentence has been changed to read "Any intrastate carrier operating under a license issued by this Commission, and who has purchased intrastate cab cards having an expiration date of December 31, 1996, shall have the expiration date of those cab cards extended until December 31, 1997".  
In Subsection (b)(2) the first sentence has been changed to read "Any Exempt interstate carrier of property who has registered with this Commission, and who has purchased bingo stamps having an expiration date of December 31, 1996, shall have the expiration date of those bingo stamps extended until December 31, 1997".
- 12) Have all the changes agreed upon by the agency and JCPR been made as indicated in the agreement letter issued by JCPR? Yes
- 13) Will this amendment replace an emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

- 15) Summary and Purpose of Amendment: This rulemaking will temporarily lower trucking fees by \$1,750,000 for the 1997 "stamp year." pending federal resolution of the Single State Registration System replacement program (the Federal Highway Administration will change the SRS system - including fees - next year). At that time a permanent funding structure can be devised.
- 16) Information and questions regarding this adopted Amendment shall be directed to:  
Kathy Campbell  
Illinois Commerce Commission  
527 East Capitol Avenue  
P.O. Box 19280  
Springfield, IL 62794-9280  
(217)785-4869

The full text of the Adopted Amendment begins on the next page:



ILLINOIS COMMERCE COMMISSION  
 NOTICE OF ADOPTED AMENDMENTS  
 TITLE 92: TRANSPORTATION  
 CHAPTER 111: ILLINOIS COMMERCE COMMISSION  
 SUBCHAPTER a: COMMERCIAL TRANSPORTATION GENERALLY

PART 1205  
 FEES AND TAXES

SUBPART A: FILING FEES

Section  
 1205.10 Filing Fees  
 1205.20 Late-Filing Fees (Repealed)

SUBPART B: ANNUAL VEHICLE FEES

Section  
 1205.100 Intrastate Motor Carriers of Property  
 1205.110 Interstate Motor Carriers of Property  
 1205.115 Ordering Fees

SUBPART C: GROSS RECEIPTS TAXES

Section  
 1205.210 Gross Receipts Taxes for Motor Carriers of Passengers (Repealed)  
 1205.220 Gross Receipts Taxes for Rail Carriers  
 1205.220 Gross Receipts Taxes for Common Carrier Pipelines

SUBPART D: PAYMENT PROCEDURES

Section  
 1205.300 Payment of Fees

SUBPART E: TEMPORARY FILING AND VEHICLE FEES

Section  
 1205.400 Temporary Filing Fees, Annual Vehicle Fees and Ordering Fees

AUTHORITY: Implementing and authorized by Sections 18c-1202(9), 18c-1501, 18c-1502, and 18c-5102 of the Illinois Commercial Transportation Law [625 ILCS 5/18c-1202(9), 18c-1501, 18c-1502 and 18c-5102].

SOURCE: Emergency rules adopted at 11 Ill. Reg. 1497, effective January 1, 1987, for a maximum of 150 days; adopted at 11 Ill. Reg. 9853, effective May 8, 1987; amended at 12 Ill. Reg. 15540, effective October 1, 1988; amended at 13 Ill. Reg. 11460, effective July 1, 1989; amended at 18 Ill. Reg. 11155, effective July 1, 1994; emergency amendment at 18 Ill. Reg. 18464, effective October 21, 1994, for a maximum of 150 days; emergency rule adopted at 20 Ill. Reg. 8198, effective June 8, 1995; amended at 21 Ill. Reg. 8198, effective June 8, 1995.

ILLINOIS COMMERCE COMMISSION  
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Reg. **3831**, effective July 1, 1994.

SUBPART E: TEMPORARY FILING AND VEHICLE FEES

Section 1205.400 Temporary Filing Fees, Annual Vehicle Fees and Ordering Fees  
 Notwithstanding any other provision of this Part, the following fees will be in effect until January 1, 1998.

a) Filing Fees

- 1) Application for Public Carrier Certificate \$100
- 2) Motor carrier of property proof of insurance \$ 0
- 3) Each order of intrastate cab cards and interstate exempt bingo stamps \$ 0
- 4) Tariff maintenance fee, payable by December 31 of each year \$ 0
- 5) Petition for Certificate of Exemption \$ 75
- 6) Application to register as an exempt interstate motor carrier of property or passengers \$ 0
- 7) Application for non-relocation towing license \$100
- 8) Application for broker's license \$100

b) Annual Vehicle Fees

- 1) Any intrastate carrier operating under a license issued by this Commission, and who has purchased intrastate cab cards having an expiration date of December 31, 1996, shall have the expiration date of those cab cards extended until December 31, 1997. Any additional cab cards purchased after the effective date of this amendment shall be \$25 for household goods carriers, and \$5 for public carrier certificate holders.
- 2) Any exempt interstate carrier of property who has registered with this Commission, and who has purchased bingo stamps having an expiration date of December 31, 1996, shall have the expiration date of those bingo stamps extended until December 31, 1997. Any additional bingo stamps purchased after the effective date of this amendment shall be \$7.

- 3) The provisions of this Section shall be automatically repealed effective January 1, 1998, in accordance with the provisions of Section 5-95 of the Illinois Administrative Procedure Act [5 ILCS 100/5-95].

(Source: Added at 21 Ill. Reg. **3831**, effective July 1, 1994.)

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1) Heading of the Part: County Jail Standards

2) Code Citation: 20 Ill. Adm. Code 701

3) Section Numbers: Adopted Action:

Amend 701.5  
Amend 701.10  
Amend 701.20  
Amend 701.30  
Amend 701.40  
Amend 701.50  
Amend 701.60  
Amend 701.70  
Amend 701.80  
Amend 701.90  
Amend 701.100  
Amend 701.110  
Amend 701.120  
Amend 701.130  
Amend 701.140  
Amend 701.150  
Amend 701.160  
Amend 701.170  
Amend 701.180  
Amend 701.190  
Amend 701.200  
Amend 701.210  
Amend 701.220  
Amend 701.230  
Amend 701.240  
Amend 701.250  
Amend 701.260  
Amend 701.270  
Amend 701.280  
New Section 701.290

4) Statutory Authority: Implementing and authorized by Section 5-7 of the Juvenile Court Act of 1987 (705 ILCS 5/5-7) and Section 3-15-2 of the Unified Code of Corrections (730 ILCS 5/3-15-2).

5) Effective Date of Amendment: April 1, 1997

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporation by reference? No

8) Date Filed in Agency's Principal Office: March 13, 1997

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9) Notice(s) of Proposal Published in Illinois Register: November 1, 1996;  
20 Ill. Reg. 14052

10) Has JCRC issued a Statement of Objections to this amendment? No

11) Difference(s) between proposal and final version: No significant changes have been made during the rulemaking process; changes have been limited to editorial changes, including typographical corrections, punctuation and grammar corrections, and minor rewording for clarification as agreed to by the Agency and the Joint Committee on Administrative Rules.

12) Have all the changes agreed upon by the agency and JCRC been made as indicated in the agreement letter issued by JCRC? Yes

13) Will this amendment replace an emergency amendment currently in effect? Yes

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: The standards have been updated, reworded, and clarified; gender specific language has been deleted; some standards have been eliminated or modified to provide more flexibility in administering jails; and new provisions for the detention of juveniles in county jails has been included per current statutes.

16) Information and questions regarding this adopted amendment shall be directed to:

Donald N. Snyder, Jr., Deputy Director  
Department of Corrections  
1301 Concordia Court  
P. O. Box 19277  
Springfield, IL 62794-9277  
217/522-2666, extension 2062

The full text of the Adopted Amendment begins on the next page:



## DEPARTMENT OF CORRECTIONS

## DEPARTMENT OF CORRECTIONS

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## NOTICE OF ADOPTED AMENDMENTS

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT  
 CHAPTER 1: DEPARTMENT OF CORRECTIONS  
 SUBCHAPTER 1: COUNTY STANDARDS

at 21 Ill. Reg. 626, effective January 1, 1997, for a maximum of 150 days;  
 amended at 21 Ill. Reg. 3835, effective \_\_\_\_\_.

## Section 701.5 Definitions

## PART 701

## COUNTY JAIL STANDARDS

"Department" means the Illinois Department of Corrections.

Section	Definitions
701.5	Administrative-Minimum-Standards
701.10	Personnel
701.20	Records
701.30	Admission
701.40	Orientation
701.50	Release Procedures
701.60	Classification and Segregation
701.70	Housing
701.80	Medical and Health Care
701.90	Clothing, Personal Hygiene, Grooming
701.100	Food Services
701.110	Sanitation
701.120	Supervision
701.130	Security
701.140	Safety
701.150	Discipline
701.160	Detainees
701.170	Mail Procedures
701.180	Telephone
701.190	Visiting
701.200	Social Service Programs
701.210	Education
701.220	Library
701.230	Religious Services
701.240	Commissary
701.250	Recreation and Leisure Time
701.260	Juvenile Detention
701.270	Temporary Detention Standards
701.280	Standards for Detention of Youths Prosecuted Under the Criminal Code of 1961

## Section 701.10 Administrative-Minimum-Standards

## a) Staff Training

1) All full-time jail officers shall be trained as provided by the Police Training Act [50 ILCS 705/8.1] (4th Rev. Stat. 1995, ch. 85, par. 598-1). All personnel assigned jail duties shall be made familiar with these standards. Such training shall include identification of signs and management of mentally impaired inmates and first aid and CPR training.

2) Jail officers and other personnel assigned to jail duty must be trained in security measures and handling special incidents such as assaults, disturbances, fires, natural disasters, evacuation procedures, escapes, emergency medical response, communications, crime scene protection, and suicide prevention.

3) Written documentation of staff training shall be maintained.

## b) Written Procedures

A current written manual of policies and regulations for the operation of the jail shall be established by the jail administrator published and furnished to each employee. Written emergency procedures for fire, riot, escapes, riots, escapes, hostage situations, major disturbances, use of chemical agents, medical emergencies including suicide prevention and crisis intervention, bomb threats, severe weather, and natural disasters shall be a part of this manual.

c) Post Description  
 1) Post descriptions for each jail operational position shall be in writing and furnished to each employee performing the function.

d) Records  
 1) The sheriff or jail administrator shall assure that all required records required by law or this Part are maintained and available for examination by staff of the Jail and Detention Standards Unit.

AUTHORITY: Implementing and authorized by Section 3-15-2 of the Unified Code of Corrections [730 ILCS 5/3-15-2].

SOURCE: Emergency rule adopted November 7, 1974; amended at 4 Ill. Reg. 28, p. 186, effective July 1, 1980; codified at 4 Ill. Reg. 14408, amended at 12 Ill. Reg. 12274, effective October 1, 1988; amended at 11 Ill. Reg. 16739, effective November 1, 1989; amended at 11 Ill. Reg. 20392, effective January 1, 1991; amended at 15 Ill. Reg. 13789, effective October 1, 1991; emergency amendment

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- e) Discrimination and Harassment  
The jail administrator shall prohibit unlawful discrimination and harassment of employees, detainees, and any other persons within the jail on the basis of race, gender, age, religion, national origin, and disability, among other matters.
- f) A code of conduct shall be established which defines behavioral and ethical standards and shall be provided in writing to all staff, volunteers, and contractual employees.

(Source: Amended at 21 Ill. Reg. 00005, effective \_\_\_\_\_)

## Section 701.20 Personnel

- a) Introduction  
Applic--change--characterize--modern--society--the--most--pblie institutions of the county jail--to--enhance--the--en--today's jail officer is more than a mere keeper of keys and bodies--Officers must operate a small community whose inhabitants seek freedom of mobility yet retain many citizen's rights--As new and expanded program responsibilities are added to protective services jail personnel must develop new skills and become proficient in applying them--When staff are given increased responsibility and proper recognition, job performance and job satisfaction improves
- b) Minimum Standards

- a) Jail Officer Staffing  
1) Each jail must have sufficient personnel to provide adequate supervision staff and detainees, shall be appointed when the average daily jail population is expected to exceed exceeds 25.

- 1b) If the average daily jail population is 25 or less, the Sheriff may function as the jail administrator for purposes of this Part.
- 3) No person shall be confined without an officer, awake and alert at all times, on continuous duty in the jail awake and alert at all times.

- 4) If the facility has more than one floor of detention, one jail officer shall be required for each additional floor when 15 or more detainees are confined. This minimum standard does not apply to the midnight shift provided if the required 30-minute supervisory checks are performed.

- 5) Supervision Under the following conditions--supervision shall be provided by a person of the same sex, where feasible, during the following periods--physical contact or examination--such as--strip--searches--Bathing periods of personal hygiene activities and--care such as showers and toileting--and-related

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- activities.  
6) The AGENCY--Nepis--this standard does not prohibit--the use of necessary force by a jail officer staff member of a sex other than that of a detainee is permitted.

- b) Personnel Rules  
1) Each jail officer staff member working in direct contact with detainees shall have a thorough knowledge of rules and emergency procedures regulations.

- 2) Jail officers shall be thoroughly acquainted with all security features of the jail and the location and use of all emergency equipment and first aid supplies. Such familiarization shall be documented.

- 3) No jail officer shall recommend or furnish any advice concerning the retention of a specific lawyer; however, a list of local lawyers shall be made available by the administration if a detainee is not represented with a last attorney.

(Source: Amended at 21 Ill. Reg. 00005, effective \_\_\_\_\_)

## Section 701.30 Records

- a) Introduction  
An accurate records system is of utmost importance--Factual information concerning prisoners--and circumstances--of their incarceration is necessary to plan programs--effectively control prisoners--meet statutory requirements, and supply regulatory agencies with information and statistics--A sound records and report system provides the jail administrator with an effective management tool
- b) Minimum Standards

- a) Booking and Personal Record Information  
A booking and personal record file shall be maintained (See Section 701.40(a) vtr-401127.)

- b) Monthly Reporter Statistics  
1) Each jail administrator warden shall monthly submit to the Department of Corrections, Jail Detention and Standards Unit, a Statistical Population and an accurate report of the number of detainees confined in the jail, by race, sex, age, and by the Department and Unit, shall be made on the information provided by the Department and shall include, at a minimum, the following information for adult males, adult females, juvenile males, juvenile females, and the total number of and provide information on each of the several categories indicated on the report form provided by the Department:

- A) New bookings and the total number of days served for non-sentenced detainees.

- B) New regular sentences and the total numbers of days served

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- of regular sentences.
- C) New work release sentences and the total number of days served of work release sentences.
- D) New weekend sentences and the number of days served of weekend sentences.
- 2)† Duplicate copies of the report shall be prepared. The reporting facility shall maintain the original and forward the duplicate to the Department by the tenth day of the following month following the report period.
- C)† Extraordinary or Unusual Occurrences Occurrence
- 1) All extraordinary or unusual incidents which involve or endanger the lives or physical welfare of jail officers or detainees must be reported to the Jail and Detention Standards and Services Unit by the jail administrator, sheriff or his or her designee, utilizing the form supplied by the Unit.
- 2)† Reports shall be forwarded within 72 hours after of the occurrence and shall include, but not be limited to:
- A) Name and address of the facility.
- B) Date, time, and nature of the occurrence.
- C) Information regarding any detainee involved in the incident, such as name, age, date confined, and charge.
- D) Information regarding any death.
- E) A summary of the facts and circumstances surrounding the incident.
- F) Any recommendation to prevent subsequent occurrences.
- G) Signature of the reporting officer and the date of the report.
- 3)† Extraordinary or unusual occurrences shall mean:
- A)† Death, regardless of cause.
- B)† Attempted suicide if hospitalization or medical treatment is required.
- C)† Serious injury, including to include accidental or self inflicted injuries.
- D)† Escape from confinement of attempted escape.
- E)† Attempted escape.
- F)† Serious fire resulting in property damage, personal injury, or evacuation.
- F)† Immediate disturbance involving four or more individuals, riot, or hostage situation riot.
- G)† Battery on a staff member, visitor, or volunteer.
- G)† Battery on detainees by a staff member.
- H)† Hospitalization or extensive medical treatment is required.
- I)† Sexual assault or attempted sexual assault.
- J)† Contagious or infectious disease or illness within the facility, excluding names of detainees or others involved.
- L) Discovery of firearms or weapons, as defined in 720 ILCS

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- 5)† A-I, in detainee living of program areas.
- M) A written or oral act of intimidation by a detainee on detainees or staff for which criminal charges result.
- N) Excessive use of force by staff.
- O) Enforced medication.
- P) Use of chemical agents.
- Q) Major property damage.
- R) Other property damage.
- Each jail administrator shall submit such other reports or records pertaining to jail administration as required by the Department for such purposes as statistical reports.
- (Source: Amended at 21 Ill. Reg. 3203, effective 10/1/83)

## Section 701.40 Admission Procedures

- a) Introduction
- 1)† Good--Jail--operation--begins--the--instant--a--detainee--in--lawful custody--enters--the--jail--A--thoroughly--planned--and--well--organized admission--process--is--an--indispensable--prerequisite--to--good--jail management.
- 2) With--confinement--the--individual--partially--forfeits--free--status for--one--of--a--dependent--detainee--if--in--undergoing--a--first--jail experience--a--person--observes--thoroughly--objective--decency--orderly--and--respectful--methods--by--the--admitting--staff--member his--reaction--to--other--jail--personnel--is--more--likely--to--be--with respect--and--confidence--on--the--other--hand--admission--methods and--procedures--which--are--designed--to--cause--disturbance--and--antagonism--toward--other--jail--staff--Admission--procedures--set--the tone--for--detainee--adjustment.
- b) Minimum--Standards
- 1)† Posting of Rights
- A Notice of Rights, available from the Jail and Detention Standards and--Services Unit, and jail rules and regulations shall be conspicuously posted in all receiving rooms and in common areas to provide maximum accessibility to detainees.
- 2)† Frisk Search
- Detainees shall be given an immediate frisk search.
- 3)† Legal Confinement Authority
- The jail officer confining persons for confinement must determine that each is being confined under proper legal authority.
- 4)† Identity
- 1)† The identity of the person being admitted must be verified as the person named in the commitment documents. Documents must become a part of the detainee's record.
- 2)† Each detainee must be photographed and fingerprinted and these

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records shall be maintained in accordance with the Criminal Identification Act [20 ILCS 2630/5] and the Juvenile Court Act of 1987 [705 ILCS 405] law (see 111 Rev-Stat-1985-ch-377-par-792-and-ch-387-par-286-57).

5) Injuries

Any seriously injured, seriously ill, or unconscious person must not be admitted to the jail until a medical examination has been conducted by a licensed physician, except when a properly staffed medical facility staffed by a physician or physician's assistant is a part of the facility.

6) Strip Search

A strip search shall be performed to measure against the introduction of weapons, contraband, and body parts.

1) A strip search shall be performed in an area that ensures privacy and dignity of the individual. The individual shall not be exposed to the view of others who are not specifically involved in the process.

2) Strip searches shall be conducted by a person of the same sex.

3) All personal clothing shall be carefully searched for contraband.

4) The probing of body cavities may not be done except where there is reasonable suspicion of to believe that the detainee is carrying contraband. Officers and such searches may only be conducted by medically trained persons other than an inmate or physician, physician assistant, registered nurse, licensed practical nurse, or paramedic in a private location and under practical conditions. Invasive searches may only be conducted:

A) By a medically trained person who is not a detainee, for medical reasons, or for reasons of safety, health, or security.

B) In a private location under sanitary conditions.

7) Personal Property-Accountability

1) Each item of personal property taken from the detainee shall be listed and described in the presence of the detainee.

A) Be listed and described in the presence of the detainee and a receipt shall be issued.

2) A receipt shall be issued which shall include the receipt must show the signatures of the admitting officer and the detainee. They with the original receipt shall be filed in the detainee's personal record file and the duplicate shall be given to the detainee.

8) Personal Property-Security

3) All personal property of the detainee shall be securely stored until the detainee is released, discharged, or transferred or such time as release, discharge or transfer occurs, unless the detainee approves, in writing, the release of such property to a designated person of his disposal. The jail shall have a policy

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for the disposal of abandoned property.

4) Personal Property Released to a third party must have the detainee's authorizing signature of approval and a signature of the receiving individual receipt of the third party.

5) Telephone Calls

1) Detained persons shall be permitted to make a reasonable number of local and long distance completed telephone calls, both locally and long distance, to an attorney of their choice and to a family member. Such calls should be afforded to the detainee as soon as possible, and, at least, within 24 hours of admission to the prison facility, and, at least, within 24 hours of admission to the prison facility.

2) The phone number of a telephone call, if any, shall be borne by the detainee or the individual called.

3) When a family member is not available, a friend may be called substituted.

4) The date and time of inmate telephone calls made during the admission process shall be recorded.

6) Physical Assessment Medical Examination

1) The admitting officer shall observe the detainee for any obvious injuries or illnesses requiring immediate emergency medical care, rashes, unusual cough, high temperature, body pests, and general mental status. The officer shall determine by questioning whether if the detainee:

A) Has any health condition which requires medical attention, conditions such as dependence on drugs or alcohol, diabetes, epilepsy, allergies, asthma, heart condition, etc.

B) Has had past treatment for mental disorders-allergies;

C) Has any suicidal tendencies as determined by the use of an authorized screening instrument or history of medical illness.

D) If the detainee is female, whether she is pregnant.

2) When a detainee shows signs of reports unusual physical or mental distress, he or she shall be referred to health care personnel as soon as possible.

7) Medication

Any medication in the possession of a detainee at admission shall be withheld until verification of its proper use is obtained and documented. This verification shall be made as soon as possible, but within the time interval specified for administration of the medication on the prescription container.

8) Booking and Personal Record Information

1) A record or records for each detainee shall be established at the time of admission and shall be maintained throughout the period of confinement. Employment of booking and personal information shall be made in accordance with Section 5 of the Criminal Identification Act [20 ILCS 2630/5].

2) Such record shall include:

A) The detainee's name and social security number.

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- B) Aliases AKA and nicknames used by the detainee.
- C) The detainee's address.
- D) The detainee's date of birth.
- E) The detainee's age, sex, and date of birth.
- F) The name of the person person to notify in case of an emergency, including the individual's address and telephone number.
- G) Physical description and characteristic marks of the detainee.
- H) The detainee's occupation Occupation.
- I) Education level attained by the detainee.
- J) The detainee's religion Religion or religious preference affiliation.
- K) The holding offense Offense charged with or sentenced for.
- L) The date Date and time of admission and authority to detain.
- M) The name Name and title of officers presenting and receiving the detainee.
- N) The name Name and telephone number of the detainee's attorney.
- O) Previous arrest record and convictions of the detainee.
- P) The medical Medical record of
- 1) The detainee's health and physical condition at the time of admission; during confinement, including treatment administered, and condition at the time of discharge; and
  - 2) The detainee's medical and/or hospitalization insurance carrier and policy numbers.
- Q) Itemized record of the detainee's cash and other valuables, expenditures, and receipts while in custody.
- R) The dates Dates of temporary absences from the jail, the authority to be absent, and the destination.
- S) A record Record of visitor's names and the dates of visits.
- T) A record Record of detainee misconduct and subsequent discipline administered.
- U) The case Case disposition, judge, and court.
- V) Tice and Other Body Pests  
Treatment, directed by the facility physician, shall be initiated immediately when body pests are detected.

## m144 Showers

All detainees must shower or bathe when admitted.

## m145 Cell Assignment

- m144 The detainee shall be assigned to suitable quarters.
- m145 Jail staff shall be responsible for cell assignment and shall control, among other matters:
- A) The assignment of detainees; detainees for example, pre or post-trial detention, etc.
  - B) The detainee's sex, health, age, type of offense charged, and prior record if known; and

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- C) Whether whether there are any accomplices or material witnesses already within the jail from whom the detainee person should be separated; and
- D) Classification and separation criteria outlined in Section 701.70.
- o146 Items of Issue
- 1) Detainees shall be issued clean bedding, a towel, necessary clothing, and soap.
  - A) Bedding shall consist of at least a mattress cover, flame retardant mattress, and covering blankets appropriate to the season of the year.
  - B) The towel shall be made of cloth and be of bath size.
- z147 Detainees shall be permitted to purchase a toothbrush and dentifrice from the commissary unless furnished by the jail staff. If the detainee is without funds in his or her possession, he or she shall be issued such items by jail staff.
- 3147 Detainees shall be held accountable for all jail property issued to them.

(Source: Amended at 21 Ill. Reg. 3835, effective \_\_\_\_\_)

## Section 701.50 Orientation

## a7 Introduction

7) Arrest and confinement are stress-producing and often result in unpredictable behavior. For the person undergoing confinement for the first time, the initial impact can determine reaction to the total experience. To those who have been confined before, previously formed impressions may be reinforced and reaction to the present situation predetermined. To counter negative reactions, a clear and concise orientation procedure by qualified staff is required.

2) A detainee must learn to adjust to confinement and have the benefit of guidance and correctly interpreted information. Otherwise, he is subject to misinformation from other detainees. He must learn rules in relation to schedules, visiting correspondence, personal cleanliness, freedom of movement, and approved activities.

## b7 Minimum Standards—Orientation—Content

- The detainee orientation shall include, but not be limited to:
- a7) Information pertaining to living and retiring meals, mail privileges, commissary, telephone, visiting, and medical care, etc.
  - b7) Rules of conduct.
  - c7) Disciplinary procedures.
  - d7) Information regarding programs, work, educational, education



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- and vocational training programs, counseling, and all social services.
- §17 Procedures for making requests or entering complaints to the jail staff, judiciary, or to Department of Corrections personnel.
- §16 Special assistance shall be given to illiterate and non-English speaking detainees.

(Source: Amended at 21 Ill. Reg. 3665, effective \_\_\_\_\_)

Section 701.60 Release Procedures

a) Introduction

- §1 Sexually followed-release-procedures-are-equally-as-important-as proper-admission-procedures-Attention-given-to-the-rightful return-of-personal-property-demonstrates-the-jail-personnel's attitude

- §2 All-jail-personnel-must-be-familiar-with-documentation-required before-a-detainee-is-permitted-to-leave-the-jail-whether-for-a temporary-period-or-as-a-final-release-Positive-identification of-each-detainee-prior-to-release-is-essential

b) Minimum Standards

a) Identification

- §1A) Positive detainee identification shall be made by the releasing officer before discharge, transfer, or release is effected.
- §1B) When a detainee is discharged or is released to the custody of another, a record shall be made of the date, time, and the authority.

b) Physical Inspection Examination

- §1 Physical inspection by or for each detainee shall receive a physical inspection by a person of the same sex, where possible, and a record shall be made of any wounds or injuries.

c) Contraband

- §1 Detainees being discharged, released, or transferred shall be searched by a person of the same sex to prevent detainees from estimate taking property which does not belong to them or other contraband as defined in Section 31A-1.1 of the Criminal Code of 1961 1720 ILCS 5/31A-1.1.

d) Personal Property

- §1 All personal property and funds inventoried at the time of admission or added during the period of confinement and not transferred to a third party or expended during confinement, other than those legally confiscated, shall be returned to the detainee upon release.

- §1A) Items shall be carefully inventoried, or otherwise accounted for, with the releasing officer and the detainee signing the inventory form.

- §1B) A copy of the itemized and signed receipt shall be maintained by the jail as a permanent record.

- §1C) All personal property of the detainee being transferred to another

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facility shall be inventoried and items to be transferred with the detainee shall be documented and turned over to the transporting officer in the presence of the detainee. Personal items-persons property allowed by the receiving facility shall be transferred with the detainee. Items not transferred shall be disposed of by the transferring facility in accordance with its procedures, for example sex, having a relative pick up items, mailing items to a person designated by the detainee.

- §1A) Transfers to Illinois Department of Corrections Pursuant to Section 104-1 of the Unified Code of Corrections 1720 ILCS 5/3-8-1 3-10-1 5-1-1 411 Rev-Stat-1995-ebv-39-1995-1993-9-1 and 1993-10-1 and 411-Rev-Stat-1996 Supply-ebv-39-1995-1995-4-14 and Section 5-13 5-19 of the Juvenile Court Act [705 ILCS 405/5-13] 411-Rev-Stat-1995-ebv-37-1995-795-197, when a detainee is delivered to the custody of the Department, the following information must be included with the items delivered:

- §1A) The mittimus or judgement order which must include the offender's name, indictment or petition number, sentence or disposition, offense, judge's name and signature, date of sentence, any court findings concerning offender status (such as Habitual Juvenile Offender, Violent Juvenile Offender, Guilty but Mentally Ill, Sex Offender, or Truth in Sentencing), dates for time served and, where applicable, whether the sentences are to be served concurrently or consecutively. In the case of a youth committed as a delinquent, a certified copy of the court order appointing the Juvenile Division legal custodian is also required.

- §1B) Any statement by the court on the basis for imposing the sentence.

- §1C) Attendance reports.

- §1D) The number of days if any which the detainee was wanted-person has been in custody and for any which he or she is entitled to credit against the sentence. Certification of jail credit time shall include any time served in the custody of the Illinois Department of Mental Health and Periodic Imprisonment, and time served while on probation or periodic imprisonment.

- §1E) A record of the committed person's time and/or his or her behavior and conduct while in custody of the county. Any action on the part of the committed person, including but not limited to an escape attempt, participation in a riot, assault, battery, infestation, sexual behavior, arson, or suicide attempt, which might affect security status and a record of medical treatment, if any, should be included in the record.

- §1F) State's attorney's statement of facts. If the statement is unavailable at the time of delivery, the statement shall be transmitted within ten days of receipt by the clerk of the court.

- §1G) Any medical or mental health records or summaries.

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- 8) That Name of municipality where the arrest of the detainee committed person and the commission of the offense, occurred, if such municipality has a population of more than 25,000 persons.
- 9) That All additional matters which the court directs the clerk to transmit.

(Source: Amended at 21 Ill. Reg. 0000, effective \_\_\_\_\_)

## Section 701.70 Classification and Separation--Segregation

- a) Introduction
- 1) Minimum segregation is required by law--Jail administrators are responsible for the safekeeping of many different types of persons--in a wide range of categories--(they) legally, mentally, and physically--and separating them for administrative purposes.
- 2) A good classification program is contingent upon obtaining essential information on which to base an appraisal--which will help reduce many security problems and provide safety for staff and detainees--proper decisions avoid the often-dangers and consequences of indeterminate housing--Classification can be based on a number of factors--(1) the procedure used in determining the size of the jail--physical facilities--and staff--(2) four fundamental conditions must be met:
- A) Security of the jail;
- B) Safety and welfare of the detainees;
- C) Protection of the staff and community; and
- D) Effective use of the jail to fulfill its potential as an instrument of correction and behavior modification for those confined;
- b) Minimum Standards

- a) Classification Information
- Each facility shall have written guidelines for the classification of detainees which specify a classification plan that specifies criteria and procedures for determining and changing the status, assignment, or security of a detainee an inmate. To determine each detainee's degree of security, housing, and program, and assignments, the following items of information, to the extent available, shall be considered, among other matters:

- 1) Age sex.
- 2) Age sex.
- 3) Age offense.
- 4) Age Status that is, pretrial. Pretrial awaiting sentence, or sentenced.
- 5) Age Past criminal history, including known prior institutional history.
- 6) Age Probation or parole status.

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- 7) Age Medical condition and treatment needs.
- 8) Age Mental and emotional mental/emotional condition and needs.
- 9) Age History of substance abuse Mental health problems.
- 10) Age Homosexuality.
- 11) Age Academic and vocational needs.
- 12) Age Special services and program needs.
- 13) Age Detainee's attitudes regarding him or herself himself and his or her future.
- 14) Age Gang activity.
- 15) Age Physical size and stature.
- b) Separation by Category
- 1) Separation by Sex
- Male and female detainees, supervised under both the direct and indirect supervision options (see Section 701.130), must be housed separately by sight and sound. Female detainees shall be confined in an area separated from physical and visual contact with male detainees.
- 2) Age
- Juvenile and adult detainees, supervised under both the direct and indirect supervision options, must be housed separately by sight and sound.
- 3) Age
- Persons being detained as witnesses, supervised under both the direct and indirect supervision options, shall be separated from detainees charged with an offense.

- 4) Age Non-Criminal
- A) Non-criminal offenders such as traffic violators, nonsupport cases, and persons charged with civil contempt who are supervised under the direct supervision option shall be kept separate by cell or detention room separated from persons charged with criminal offenses.
- B) When possible, non-criminal offenders such as traffic violators, nonsupport cases, and persons charged with civil contempt, who are supervised under the indirect supervision option shall be kept separate by detention room cluster or cell block from persons charged with criminal offenses.
- C) When possible, misdemeanants and felons should be housed separately. Admcr--NCRS--Separate--housing--is--strongly recommended--for--misdemeanors--and--felony--except--where--the--detainee--has--prior--history--(see--subsection--(b)(1)(e))--warrants--similar--housing--options--for--detainees--are--superior
- 5) Age Charged and Sentenced Offenders Sentenced Offenders
- A) Charged and sentenced offenders who are supervised under the direct supervision option shall be separated segregated from convicted unsentenced offenders by cell or detention room.
- B) Charged offenders who are supervised under the indirect supervision option shall be separated from convicted offenders by detention room cluster or cell block.

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## B) Housemates

- 5) Known-housemates shall be housed separately.
- 6) Mentally or emotionally disturbed or impaired retarded shall be mentally or emotionally disturbed or impaired retarded shall be housed or tiered separately and maintained under separate supervision as recommended by a mental health professional.
- 7) Suspected disturbed or impaired retarded persons shall be immediately examined by a mental health professional physician or other competent person, and action shall be taken to transfer them to an appropriate facility. A mental health professional means a psychiatrist, physician, psychiatric nurse, clinically trained psychologist, or an individual who has a master's degree in social work and clinical training.

## 3) Direct Supervision-Option

Where jail design and policies and procedures of jail management meet the requirement of direct staff supervision of inmates within housing areas classification and prisoner housing assignments may alternatively be based upon prisoner behavior rather than mandatory separation by classification category with the following stipulations:

- A) Jail staffing must provide for a correctional officer within each housing area on a twenty-four-hour basis. This correctional officer shall be a direct inmate and oral communication with the inmate shall be maintained by security staff or other personnel.
- B) Exercise of this option does not waive the requirements of subsection (b)(1) which require a classification plan taking into account its designated considerations.
- C) Exercise of this option does not waive any requirements of subsection (b)(2) separation by category, except the requirements of subsection (C).

## 5) Classification Review

Review of the committed person's security and assignment classification shall be conducted periodically, but at least every 60 days.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 701.80 Housing

## a) Introduction

- 1) Where housing procedures are completed, the new detainee must be assigned to quarters based upon separation and classification requirements.
- 2) Minimum Standards

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The following statements of required minimums while mandatory are not intended to discourage the meeting of a higher standard to the contrary counties are encouraged to incorporate recognized professional standards in the planning and design of new facilities even though such standards may not be cited herein. It should also be noted that compliance with standards when exceed those when are cited herein shall be considered as compliance. Facilities shall be ordered by the courts in conjunction with jail conditions litigation.

## a) Cell and Detention Room Space

- 1) At least 50 square feet of floor space shall be provided in each cell with a minimum ceiling height of eight feet.
- 2) At least 64 square feet of floor space shall be provided for each detention room with a minimum ceiling height of eight feet.
- 3) With regard to existing facilities, the Department of Corrections will not initiate legal action against a county if the only physical noncompliance relates to square footage of the individual cell or detention room. The facility would technically not be in full physical compliance but no formal action would result unless there are additional noncompliances such as not providing suitable quarters as a result of overcrowding.

## b) Cell or Detention Room Occupancy

All existing cells and detention rooms should be designated for a maximum of double occupancy (two inmates per cell or detention room).

## 5) Cell or Detention Room Equipment

- 1) Each cell should be equipped with:
- a) A cell toilet, securely anchored to the floor of and/or wall or a metal bottom, securely anchored to the floor of and/or wall or a concrete sleeping surface. A flame-retardant mattress with no inner springs, slash-check mattress coverlet and bed covers suitable to the season. A sleeping surface constructed of concrete may only be used if the construction design is approved in advance by the Department of Corrections. In determining whether to approve the construction design of concrete beds, the Department will consider, among other matters, the architectural design, whether the concrete is solid, whether beds they would be constructed in a manner which would not affect heating of the cell, whether the height and measurements are similar to a standard jail bed, and whether the location of the bed would restrict detainee movement.

2) A washbasin with piped hot and cold water. A supply of disposable drinking cups shall be provided if the washbasin is not drinking fountain equipped.

## 3) A Prison type toilet.

4) Illumination sufficient to assure a comfortable reading at desk level (at least 20 foot-candles) illumination at a height of three feet above the floor). Light fixtures shall be tamper



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## d) Dormitory Space

1) A dormitory is defined as a multiple occupancy room which is occupied and held over the two living units. No person is to be admitted for suitability to group living who are screened prior to admission.

2) Floor space for dormitories shall be determined by the number of detainees each individual dormitory is designated to house.

- A) At least 50 square feet of floor space shall be provided per occupant.
- B) There shall be a clear floor to ceiling height of not less than eight feet.

## e) Dormitory Occupancy

1) The measures outlined in Section 701.70 (Classification, Separation, Segregation) shall be followed prior to placement in a dormitory observed to ensure reasonable screening and assignment.

2) Dormitories are to be utilized exclusively for persons who are suitable for group living. It is suggested that the most likely candidates for dormitory style living are work releasees, weekenders, trustees, and sentenced misdemeanants (after intensive screening).

## f) Dormitory Room Equipment

- Each dormitory shall be equipped with:
- 1) A bed for each detainee of a rigidly constructed metal bed, with a solid top and a rigidly constructed metal bed frame, securely anchored to the floor and/or wall.
- 2) A washbasin with piped hot and cold water for every eight occupants. A supply of disposable drinking cups shall be provided if the washbasin is not drinking fountain equipped.
- 3) A prison type toilet for every eight occupants.
- 4) A shower with piped hot and cold water for every eight occupants.
- 5) Illumination sufficient to assure a comfortable reading at desk level (at least 20 foot-candles) at a height of three feet above the floor. Light fixtures shall be tamper proof.
- 6) Securely anchored metal tables as well as chairs or benches. Tables and chairs do not have to be securely anchored in direct supervision units provided that alternatives would not affect the safety and security of the facility or individuals. Adequate seating shall be provided for detainees each detainee.
- g) Accessibility Access-Elevator
- Cells, no-rent or detention rooms shall conform to current building and accessibility codes be located above the first floor, unless key operated elevator service is provided. This standard is waived for existing structures.
- h) Day Room
- A day room is defined as an area, separate from, but in conjunction with, individual cells or detention rooms which allows two or more

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inmates access from their cells or detention rooms--the purpose of--a day room is to allow the participation of contact between inmates for leisure time activities such as cards, dominoes, checkers, or similar nonstructured activities. Day Addition--day rooms provide a place for meals to be eaten outside individual cells or detention rooms and for approved activities.

1) For existing structures, a day room area containing no less than 100 square feet of floor space shall be provided in conjunction with each cell block or detention room cluster. For new structures, major renovations of existing cell blocks or detention room clusters, a day room area containing no less than 35 square feet per cell or detention room must be provided in conjunction with each cell block or detention room cluster.

2) Each day room shall be equipped with securely anchored metal tables as well as chairs or benches. Tables and chairs do not have to be securely anchored in direct supervision units provided that alternatives would not affect the safety and security of the facility or individuals. Adequate seating shall be provided for detainees each detainee.

## j) Showers

Showers shall be provided in each cell block area.

## k) Mirror

Cells and detention rooms shall contain a metal mirror anchored securely to the wall.

## l) Ventilation

Detention areas shall be comfortably heated and cooled according to the standards of the ASHRAE system designed to eliminate disagreeable odors and to routinely provide temperatures within the normal comfort zone.

## m) Compliance

1) All requirements of a physical nature shall be complied with by the jails. However, if the Department of Corrections has previously given written approval for final architectural plans for new construction or remodeling, new standards of a physical nature will not be enforced, following dates:

- A) Date built in 1950 or before--shall be in compliance by January 1, 1986.
- B) Date built between 1951-1970--shall be in compliance by January 1, 1990.
- C) Date built between 1971-1979--shall be in compliance by January 1, 1995.
- D) Date built after 1979--shall be in compliance under construction must comply--However, if the Department of Corrections has previously given written approval for final architectural plans for new construction or remodeling, new standards of a physical nature will not be enforced.

2) Those noncompliances relating to physical conditions which adversely affect the treatment of detainees with respect to their health and safety may be considered for further action under the

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provisions of Section 3-15-2(b) of the Unified Code of Corrections [230 ILCS 5/3-15-2(b)] (41st Rev. Stat. 1993-09-07) (41st Par. 1003-15-2(b)).

**2133 Variance**

1) Variances connected with physical requirements may be granted by the Director of the Department of Corrections for existing facilities for a specific period of time. Variance expiration dates will be determined at the time granted. Variance requests of an administrative nature will not be granted. In determining whether to grant a variance, the Department will consider, among other factors, the nature of the standard, previous noncompliance, the cost, the population, the alternative means of complying with the intent of the standard, the length of time requested for the variance, the consequences if the variance is not granted, and the safety and security of the facility or individuals.

2) A variance request must be in writing, signed by the sheriff, and pertain to a specific standard. 3) The request must describe the variance, the period of time for the variance, the reasons for granting the variance, the manner in which the variance will be implemented, and a statement that the variance would not adversely affect the health and safety of detainees or security of the jail.

4) All of these criteria will be considered in arriving at a decision.

3) The approval or denial of a variance request will be returned by letter to the requesting governmental agency.

4) The Director of the Department of Corrections, at his or her discretion, may grant a renewal of the variance provided documentation is received from the governing body which indicates a good faith effort on its part to effect necessary actions to comply with the standard in question.

5) A permanent variance, depending on the circumstances, may be granted.

**2134 Architectural Plans**

New construction and remodeling plans of detention facilities must be submitted to the Department for review and approval to ensure the physical standards are met.

1) The architect's preliminary drawings and final plans and specifications shall be submitted to the Department of Corrections. 2) Plans showing the proposed building location must be submitted to the Illinois Department of Natural Resources, Division of Water Resources, to determine compliance with the Regulation of Construction within Flood Plains (92 Ill. Adm. Code 706) and Construction Activities in Special Flood Hazard Areas (Executive Order 79-4, effective June 1, 1979).

3) Subsections (c)(1), (3), and (4), subsection (f)(6), and

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subsection (b)(2), Subsections (b)(3)(4), (5), and (6), (b)(6)(7) and (b)(8)(9) of this Section. The Department has provided for those facilities exercising the Direct Supervision Option, as described in Section 701-20(e) 701-70(b)(4), provided that alternatives would not affect the safety and security of the facility or individuals.

(Source: Amended at 21 Ill. Reg. 335, effective \_\_\_\_\_)

Section 701.90 Medical and Health Care

**a) Introduction**

1) For more than half a century courts have held it a jailer's duty to exercise reasonable and ordinary care to protect a detainee's life and health. More recently courts in several states have ordered direct and substantial medical services to be provided persons in jail confinement.

2) Health services should reflect the desire of the community to provide health care equivalent to that recorded in citizens in the free community. The detainee must be shown concern and attention in his physical and mental well-being. Confinement for many persons is a physical and mental hardship. Some detainees will attempt to manipulate jail staff with various physical complaints in order to attract attention, plot escape, obtain drugs, or create situations in order to register complaints regarding their treatment.

3) Jail personnel cannot risk the consequences in refusing a detainee's need or request for medical attention. Economic or a detainee's behavioral history must not be allowed to influence the decision to provide emergency medical attention. 4) The current edition of the American Medical Association Standards for Health Services in Jail should be consulted as guidelines for planning, developing, and implementing medical and health services.

**b) Minimum Standards**

**313 Medical and Health Services**

All jails shall provide a competent medical authority to ensure that the following documented medical services are available:

- 2137 Correction and diagnosis of complaints.
- 2138 Treatment of medical conditions and special diets.
- 3139 Prescription of medications.
- 5139 Arrangements for hospitalization.
- 5139 Liaison with community facilities and resources.
- 6139 Environmental health inspections.
- 7139 Supervision of special treatment programs, as for alcohol and other drug dependent detainees inmates.
- 8139 Administration of medications.

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- 9)† Maintenance of accurate medical records.  
10)† Maintenance of detailed records, particularly of narcotics, barbiturates, amphetamines, and other dangerous drugs.
- b)† Physician and Dental Services
- 1)† A medical doctor shall be available to attend the medical and mental health needs of detainees. Arrangements shall be made for provision of a dentist-to-provide emergency dental care as determined necessary by a dentist or a medical physician.
- 2)† General medical, physician services may shall be provided by one or more-of-the-following procedures:
- A)† Staff physicians: On-salary--in accordance-with-locality established-personnel-pay plan.
- B)† Contractual services of a contract-with-a-local-physician or-extire-for-full-time-coverage-at-specific-hours-and-for emergencies.
- C)† A contract-with-a-local-physician-to-conduct-sick calls-on-call-for-emergencies-and-to-examine-newly admitted persons.
- C)† A Arrangements-with-a nearby hospital to-provide-all needed-medical-services.
- V)† Services-rendered-without-cost-by-another-agency-or department-with-costs-promoted.
- c)† Admission Examination
- 1) All persons admitted to confinement shall undergo a physical assessment examination as prescribed in Section 701.40(1)(1)††††.
- 2)† Newly admitted persons suspected of having any type of communicable disease shall be isolated and an immediate referral shall be made to the jail physician for possible transfer to a medical facility unless the admitting facility can safely and effectively segregate and maintain a medically prescribed course of treatment.
- 3)† All detainees confined shall be given a medical screening by a medical doctor, a registered nurse, a licensed practical nurse, or a physician assistant within 14 days after confinement and as required by a medical doctor thereafter.
- d)† Sick Call
- 1) A schedule shall be established for daily sick call.
- 2)† The names of those detainees reporting to sick call shall be taken in the medical log.
- 3)† Detainees with emergency complaints shall receive attention as quickly as possible by the medical staff of the sick call schedule.
- 4)† Non-medical jail staff may issue any form of over-the-counter medication, providing the attending physician investigates the illness, approves, to the facility for such issue and the issue is made at the request of the detainee.
- b)† Written Record or Log

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the building shall be situated to prevent room air from being discharged near inhabited areas, building air intakes, and exterior zones of stagnant or trapped air.

B) Where the above is not feasible, room air should be directly exhausted through a high efficiency particulate air (HEPA) filtration system. If a HEPA system is utilized, the system shall be installed and maintained in accordance with the manufacturer's instructions and filters shall be replaced as needed and at intervals not exceeding 30 days.

4) An air pressure switch or fail switch should be placed in the exhaust air duct. This switch should illuminate a red light at an occupied station when air flow in the duct is disrupted. A sign should be placed next to the red light instructing individuals to call the maintenance department immediately when the red light is illuminated. Facilities using a window exhaust fan or through wall unit shall install a similar indicator light showing loss of power.

5) A differential air pressure gauge should be used to monitor each isolation room. The gauge has two ports. The gauge shall be sized per the manufacturer's instructions. One port shall be piped to the isolation room. The other shall be piped to the hallway outside that room. The gauges shall be placed in a location where they are convenient to read, but are also protected from vandalism and damage. They may require a cover or other protective device. The staff shall be responsible for monitoring these gauges to ensure differential pressure is being maintained.

6) Operable windows must be closed permanently or made inoperable.  
7) The corridor door must be installed at a lower door closer installed. The corridor door must not be allowed to remain in the open position when the room is occupied.

(Source: Amended at 21 Ill. Reg. 3035, effective

Section 701.100 Clothing, Personal Hygiene, Grooming

a) Introduction

1) Grooming--of-a-good-attitude-toward-personal-hygiene-and-grooming--benefits-any-jail-program---it-enhances-morale-self-respect-and-health-and-contributes-to-a-more-positive relationship-between-staff-and-detainees

2) Arbitrary rules for personal appearance are sometimes encountered which reflect bias and violate detainee rights---On-the-other-hand--some-persons-admitted-to-jail-may-practice-such-poor standards-of-personal-hygiene-as-to-be-obnoxious-to-others-and make fellow-detainees uncomfortable

b) Minimum Standards

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a) Cleanliness

1) Mechanical washing and drying equipment, and cleaning agents must be provided when detainees are required to supply and wear personal clothing.

2) Personal clothing is provided by the jail. Clean clothing shall be issued at least twice one weekly.

b) Grooming and Personal Hygiene  
1) Detainees without funds shall be provided necessary equipment and articles to the detainee.

2) Bathing or showering shall be allowed three times required--twice weekly, except as amended by medical advice in individual cases.

3) Detained males shall be permitted to shave daily. Shaving equipment and shaving soap shall be made available. Safety razors shall not be shared between detainees.

4) Detained females shall be provided with shaving supplies appropriate for personal hygiene needs.  
5) Barber and beautician services shall be made accessible but must not violate required security measures.

6) Hair--shall-be-kept-neat-and-clean---There-shall-be-no-mustaches-and-beards-are-acceptable

7) When-a-detainee-neglects-the-requirement-of-neat-and-clean-grooming--the-shaft-of-the-official-administrative office--shall-be-kept-neat-and-clean---Rooming-standards-to-be-maintained-by-the-detainees

8) Female detainees shall be provided articles for feminine hygiene.

(Source: Amended at 21 Ill. Reg. 3037, effective

Section 701.110 Food Services

a) Introduction

1) Food-is-a-most-important-factor-to-a-detainee---it-assumes-a-greater-significance-than-when-he-was-free-in-the-community---the method-of-preparing-and-serving-it-must-variety-quality-and-quantity--all-influence-detainee-behavior-and-morale---Food-is-a-major-source-of-complaint-and-is-often-identified-as-the cause-of-jail-discontent-and-disorder

2) A good food service program requires three meals per day--Spaced-at-reasonable-intervals--adequate-in-quantity-nutritionally-balanced-well-prepared-attractively-served-and-provided-at-a-low-cost-it-requires-careful-planning-and-competent supervision-in-food-purchasing-preparation-and-serving

b) Minimum Standards

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## a) Meal and Food Service

all facilities shall provide meals and food service that conform to the following:

1) All food must be of sufficient nutritional value and provide a minimum of 1,800 to 2,000 calories for adults and 2,500 to 3,000 calories for juveniles per day.

2) Food quantity must be sufficient to satisfy, within reason, the detainee's needs.

3) Meals shall be provided at reasonable and proper intervals, that is to say, adhering to recognized breakfast, lunch, and dinner schedules. Meals Breakfast shall not be served earlier than 6:30 a.m. for breakfast, lunch no earlier than 11:00 a.m. for lunch, and supper no earlier than 4:00 p.m. for supper.

4) A beverage drink other than water shall be served with each meal.

5) Of the three meals provided for each 24 hours of detention, one shall be a balanced and complete hot meal.

6) Special diets shall be adhered to when prescribed by a jail physician.

7) Meal Preparation and Food Service Sources—of service by one or more of the following methods:

A) Contract for catered food service.

B) Provide frozen, or otherwise pre-prepared, meals which have been tested by the prospective consumer to produce a condition suitable for consumption.

C) Food preparation and service in an on-site kitchen with food service staff who are employees of the facility.

8) At least one full-time cook or the food service provider shall have food services sanitation manager certification from the Illinois Department of Public Health.

9) Detainees may abstain from any foods the consumption of which violates their required religious tenets.

A) Menu items may be substituted when a detainee's religious beliefs prohibit the eating of particular foods.

B) The detainee may submit a written request to the jail administrator for an alternative diet.

C) The jail administrator may confer with religious leaders of faith representatives in determining whether to grant any such requests.

b) Menu

1) Menu shall be preplanned and copies of the menu served shall be maintained for a period of three months.

2) The menu shall be diversified so as to avoid the monotony of a standardized diet.

4) Portion Serving—shall be defined as a quantity which equals a portion of a tray and is satisfying to the majority.

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## c) On-site Food Preparation and Service Facility Provided

Food service shall conform to the following:

1) All food service operations, whether contractual or on-site, shall be conducted in accordance with the Illinois Department of Public Health Food Service Sanitation Code 177.00, Admin. Code 729.00, and the Illinois Department of Corrections Food Service Sanitation Code 177.00, Admin. Code 729.00. The facility shall be equipped with all necessary security aspects of the operation and be effective in training and supervising detainees in food services.

2) Detainees shall be screened by medical staff prior to commencing work in food services areas assigned to food service must undergo a physical examination and be certified free of communicable diseases.

3) All employees and detainees shall be visually evaluated at the beginning of each shift. Any individual with boils, infected wounds, or respiratory infections must be cleared by medical staff before being permitted to work in any food service area. Personal appearance—whether employee or detainee—must be inspected regularly.

4) Detainees working in food service shall be required to bathe daily and dress in be provided with clean work clothing provided by the jail prior to their daily work shift.

5) The jail cook or kitchen staff must be familiar with security aspects of jail operation and be effective in training and supervising detainees in food services.

6) Meat—When cooked or insulated grills are used, utensils shall be utilized when the serving or dining area (cell, day room, etc.) is a significant distance from the kitchen and appropriate food holding temperatures temperature would not otherwise be maintained.

7) Food and drink, while being stored, prepared, displayed, served, or transported, shall be protected from contamination by insects or foreign substances.

8) Divided or compartmented trays shall be used for full meal service. Food trays, dishes, and eating utensils shall be removed from detainee's quarters (cell, day room, etc.) soon after the meal is finished and returned to the kitchen for proper washing and sterilizing or disposal.

9) Openings to the outside shall be effectively protected against the entrance of rodents and insects by tight fitting self-closing doors, closed windows, screening, controlled air currents or other means. Screens for windows, doors, skylights, transoms, intake and exhaust air ducts, and other openings shall be tight fitting and free of breaks. Screening materials shall be at least 16 mesh to the inch.

10) Ranges, stoves, and ovens shall be equipped with an accurate thermostat temperature gauge and be in accordance with state or local fire codes pertaining to hood exhaust and fire



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personal habits--Some are cleanliness-conscious while others are not--different supervision will note these differences and will quickly identify detainees who habitually have dirty cells--or rooms.

b) Minimum Standards

a) General Requirements

1) A cleaning schedule shall be established--

1) A Non-carpeted floor floors shall be swept and mopped with detergent or a germicidal agent at least once daily. Germicidal cleaning agents shall be used on all floors in toilet, shower, and food service areas.

2) Windows shall be clean.

3) Openings to the outside shall be effectively protected against the entrance of rodents and insects and shall be maintained in good condition. Windows and screens shall be maintained in good condition. Windows, appropriate, closed windows or screens may be utilized for protection against flying insects. Screening material shall not be less than 16 mesh to the inch.

b) Ventilation must be sufficient to admit fresh air and remove disagreeable odors.

4) Forced air or other form of artificial ventilation in the living area shall provide at least 10.66 cubic feet of fresh or purified air per minute of air-exchange per person.

5) Walls shall be kept clear of etched or inscribed graffiti or and/or writing.

6) Walkways and corridors shall be free of litter or trash.

7) Mops and other cleaning tools and implements shall be thoroughly cleaned and dried after each use and securely stored in a well ventilated place under staff control.

8) All detainee cleaning details shall be under the supervision of a jail officer.

b) Facility Equipment

1) Quarters Toilets, equipment--toilet washbasins, shower stalls, sinks and shall be thoroughly cleaned and sanitized each day with disinfectant and a disinfectant.

2) Air-ventilation--garage--concrete--shall be equipped with tight fitting covers. Trash and garbage shall be removed at least daily and disposed of in a sanitary manner.

c) Facility Drinking Equipment

1) Drinking water shall be provided in cells, dormitories and recreation or day room areas and may be from a sink tap, or preferably, a sink spout (bubble).

d) Facility Supplies

1) An adequate supply of clean clothing, bedding, towels, soap, and cleaning supplies shall be maintained.

2) Sheets, pillowcases, and mattress covers shall be changed and washed at least once a week.

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suppression systems.

1) A mechanical dishwasher which meets Illinois Department of Public Health standards (77 Ill. Adm. Code 750) is preferred, but in its absence:

1) A three-compartment, stainless steel sink with drainboard is required: one compartment for washing with hot 110 degree-F water containing adequate soap or detergent; a second one compartment for rinsing; and a third one compartment for sanitizing sterilization with a chemical sanitizing agent of the water with a temperature of no less than 170 degrees F. or sterilization using a sanitizing agent.

2) Trays and trays shall be drain dried and not wiped dry.

3) Dry stores such as flour, cereal, dried beans, peas, coffee, and canned goods shall be stored in a cool, dry, and well ventilated area, screened or otherwise protected against insects and rodents.

4) Containers--used to store dry bulk quantities--shall be lined with or have the interior coated with an acceptable impervious substance or plastic.

5) Fresh fruits, vegetables, dairy products, meats, and frozen foods shall be refrigerated. All refrigerators and freezers shall be equipped with an accurate thermometer. Frozen food shall be kept at or below 0 degrees F. temperature. Potentially hazardous food items shall either be stored frozen or at or below 41 degrees F. All perishable food shall be stored at temperatures that such temperature--as will protect against spoilage (45 degrees F. or below).

6) Containers--used to store dry bulk quantities--shall be lined with or have the interior coated with an acceptable impervious substance or plastic.

7) Good--sanitation--must be a prime consideration--Sanitation procedures--can be easily overlooked or ignored--Sanitation administrators--must impress on jail staff--that cleanliness improves the general conditions of the jail--and affects detainee attitudes--Insistence upon keeping the facility clean demonstrates to detainees that they are important as human beings.

8) One of the most difficult tasks in effecting and supervising good sanitation practices is instructing newly admitted detainees of the importance for keeping their quarters clean--Individual differences exist between detainees with respect to their

Section 701.120 Sanitation

a) Introduction

1) Detergent water and supervision are three things essential to a clean jail.

2) Good sanitation must be a prime consideration--Sanitation procedures can be easily overlooked or ignored--Sanitation administrators must impress on jail staff that cleanliness improves the general conditions of the jail and affects detainee attitudes--Insistence upon keeping the facility clean demonstrates to detainees that they are important as human beings.

3) One of the most difficult tasks in effecting and supervising good sanitation practices is instructing newly admitted detainees of the importance for keeping their quarters clean--Individual differences exist between detainees with respect to their

(Source: Amended at 21 Ill. Reg. 3863, effective \_\_\_\_\_)

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- 3)B) Vinyl covered mattresses must be washed with hot water, detergent, and disinfectant monthly or before reuse.
- 3)E) Blankets shall be laundered, or otherwise sterilized, monthly or before reuse.
- 5)B) Cotton or fiber filled mattresses or pads shall be aired and spray sanitized monthly or before reuse.
- 6)B) A clean towel shall be issued each detainee at least twice weekly.

7)F) Shaving and barber tools shall be thoroughly cleaned, disinfected using bleach or a germicidal agent, by the staff and secured.

## e) Facility Food Service

- 1) The floors of all rooms in which food or drink is stored, prepared or served, or in which utensils are washed, shall be kept clean.

2)A) All counters, shelves, tables, equipment, and utensils with which food or drink come in contact shall be maintained in good repair and free of corrosion, cracks, and chipped or pitted surfaces.

3)B) Utensils shall be stored in a clean, dry place protected (covered or inverted) from flies, dust, overhead leakage, and condensation.

3)E) There shall be adequate plumbing facilities, in good working order, which meet applicable State plumbing codes or public health standards.

5)B) The range cooking surface shall be scraped daily. Hoods, vents, and filters shall be cleaned regularly.

6)B) All windows, walls, and woodwork shall be kept clean.

## f) Body Pests

1)F) Frequent inspection of living areas shall be made to aid in control of body pests.

2)B) Immediate Sanitation and extermination measures shall be taken when bedbug infestation occurs. Control measures may include: 7 including spraying or fumigation of bedding-clothing, equipment and all areas of the building areas and scyvalini, controlled storage (to interrupt pest reproductive cycles), and laundering of bedding, clothing, and other equipment supportive-of-existence and-reproduction-of-the-pests.

## g) Pest and Vermin Control

A continuous and effective program of insect and rodent control and extermination shall be established and documented.

(Source: Amended at 21 Ill. Reg. 883, effective

## Section 701.130 Supervision

## a) Introduction

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2) The primary objective of any jail is to provide a safe, secure and humane facility.

2) The primary function of any jail is the safekeeping and control of persons charged with or convicted of a crime--in a detention setting--the least of human emotions and behavioral reactions to them can be--seem--depression--calm--rage--twenty-four-hour supervision--detained personnel is necessary to maintain a safe and secure facility.

3) Post-supervision provides protection to both staff and detainees--Misbehavior or malicious acts cannot be easily plotted and carried out and escapes or attempted escapes are more easily thwarted when staff direction is constant.

4) Supervision is more than surveillance--for it includes the elements of interaction between people--Electronic surveillance should never be relied upon as a primary form of supervision--it is an important supplement to direct contact supervision--but at best it provides only conditional watchfulness.

## b) Minimum Standards

## a) Shift Coverage

1) There must be a sufficient number of officers present in the jail, awake and alert at all times, to provide supervision directly or indirectly while detainees are in custody.

2) Direct supervision means direct and continuous supervision of detainees by a jail officer on a 24-hour basis. The jail officer shall be in direct visual and oral contact with the detainees without separation by security walls or other barriers.

3) Indirect supervision means non-continuous direct visual and oral contact with detainees and may include separation by security walls or other barriers.

2)A) A jail officer shall provide personal observation, not including observation by a monitoring device, at least once every 30 minutes.

3)B) Dormitories housing more than 25 inmates must provide personal observation by staff, not including observation by a monitoring device.

3)E) Radio operators who may perform performing jail officer duties such as--to--inmate 30-minute supervisory checker shall have jail officer training in accordance with Section 701.10.

## b) Shift Log Record

A written record of all activities occurring in the jail shall be maintained by each jail officer assigned to call block duty on each shift. Entries shall show the time of each visit by the jail officer, his or her signature, and any relevant remarks such as incidents and activities occurring on the shift.

c) Detainee Imposed Discipline Prohibited Mandate Courts and Barr-Boss System



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Kangaroo courts; sometimes called "Sentary Courts" or "Barn Boss Systems" or "any other similar detainee organization" shall be prohibited. No detainee shall ever be allowed to have authority or disciplinary control over anyone.

11A7 Night Hours  
11A7 Detainees shall be locked in their individual cells between the designated times of lights out and arising in the morning, except for night work crews which are continuously supervised.

21B7 Designated lights out time shall be determined by administrative policy but shall not be set earlier than 10:00 p.m.

(Source: Amended at 21 Ill. Reg. 302.35, effective \_\_\_\_\_)

## Section 701.140 Security

## a7 Introduction

1) No correctional program can be successfully implemented without effective security. All jail personnel must be continuously attentive to security measures. Apathy, temporary lapse of caution and ignoring procedures for personal convenience are major causes of breakdown in custody procedures.

2) Jail officers must follow proven security procedures in an unobtrusive manner with a minimum of disruption or interference with jail activities. Security objectives are more easily accomplished when each officer's work coordinates with that of other personnel. In this way, staff confidence and trust develops, which in turn has a positive effect on the total jail environment.

3) Although mechanized locking devices and other equipment are an important part of the jail security system, the final dependence is on training and alertness of staff.

## b7 Minimum Standards

## a17 Searches

Detainees permitted to leave the confines of the jail temporarily, for any reason, shall be thoroughly searched prior to leaving and before re-entering the jail.

## b127 Supervision

Jail officers and other personnel assigned to jail duty must be trained in security measures and handling special incidents in accordance with Section 701.10 such as assault, disturbances, fires, and natural disasters.

## c127 Facility Security Measures

Jail officers only must exercise and control security measures and shall not permit detainee assistance.

11A7 All jail lockers, doors, bars, windows, screens, grilles, and fencing shall be regularly and frequently inspected to ensure

their proper functioning working order and to detect and prevent escape efforts.

2) All cell block doors and all doors opening into a corridor shall be kept locked, except when necessary to permit entry or exit.

3) In cell block design which includes safety vestibules, two doors into the cell block shall not be unlocked and opened at the same time.

4) Unoccupied cells, detention rooms, and storage rooms shall be kept locked at all times.

5) Backup personnel shall be notified and available when cell doors to living quarters are opened.

6) Detainees with no assigned orders shall not be assigned trusty status.

7) Glass or unattached metal items shall not be permitted in the detention area.

8) Jail sections housing persons who are escape risks, suicidal, hardened or escape-minded detainees, inmates with weapons, and other dangerous persons shall be assigned special security and checked more frequently than the standard 30-minute check.

9) A master population record, computer print-out or locator board, shall be established and maintained at the control center, indicating the various jail sections and housing assignments.

10) Jail officers shall conduct population spot checks at least hourly.

11) A documented inventory of all keys available to jail officers shall be made at the beginning of each shift.

12) Random unannounced frequent but irregularly scheduled shutdowns of detainees and their quarters shall be made to detect the presence of weapons and other contraband.

13) Bars, walls, windows, and floors of the jail and detention sections shall be regularly and frequently inspected and kept clear of large posters, pictures, calendars, and articles of clothing which might be used to conceal escape attempts.

14) Tools and Equipment Maintenance-Weapons

1) All tools and equipment shall be inventoried and securely stored.

2) Jail issued, received, and returned to secure storage.

3) After use, tools and equipment shall be accounted for by the jail officer responsible and secured in the returned-to-their proper storage place.

4) Eating utensils shall be accounted for after each meal and returned to the kitchen.

5) Maintenance

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Any damaged or nonfunctioning security equipment must be promptly repaired and replaced.

- 1) Access to keys and records by Detainees  
 2) Detainees, including trustees, shall not be permitted to handle, use, or possess keys in their possession.  
 3) No Detainee shall be assigned work that requires access to any personnel records of staff or persons currently or previously in detention nor to staff personnel records.

## 1) Population Count

A physical head count shall be made and recorded at least three four times daily--including--counts--taken--at--change-of-shifts--and--night--lockup.

## 2) Key Control

- 1) A record of all keys inventoried and issued shall be maintained.  
 2) Jail keys must be stored in a secure key locker when not in use.  
 3) There must be at least one full set of jail keys, separate from those in use, stored in a safe place, accessible only to designated jail personnel for use in the event of an emergency.

## 3) Firearms and Other Weapons

- 1) No person, including law enforcement personnel, shall be permitted to enter any secure section of the jail with a gun or other weapon on his or her person.  
 2) Weapons shall be stored in a secure and locked drawer, cabinet, or container outside the security area.  
 3) Protective firearms, ammunition, chemical agents, and other protective equipment shall be stored in a secured room (arsenal).  
 4) Chemical Agents  
 Persons who may be authorized to use designated-to-authorize--the--use of tear gas, mace, oleocapsicum (commonly known as pepper mace or OC), etc. in accordance with the jail's written policy, shall be named in writing and shall be trained in the proper employment of the chemical agents. Such training shall be documented.

1) Chemical agents shall be used only as a last resort to bring a detainee detainee under the necessary degree of control and only after thorough consideration of alternative means and of the hazards involved, including the physical characteristics of the area where it is to be used. A record of the incident shall be made.

2) Detainees A--detainees affected by tear gas or other chemical agents must be given a thorough medical examination and appropriate treatment immediately after security control has been gained.

## 3) Power Control

- 1) All--costs--shall--be--inventoried--and--locked--in--a--secure--place  
 2) Emergency Power Source  
 A) An emergency electrical power source shall be available in the event of a power failure.  
 3) Emergency flashlights must have a six hour illumination

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## Casability.

(Source: Amended at 21 Ill. Reg. 300, effective 1/1/80)

## Section 701.150 Safety

## a) Introduction

The fire-line-between-good-safety-and-good-security--practices--is almost-indistinguishable--one-complements-the-other--For-the-purpose of-these-standards-safety-protects-both-staff-and-detainee  
 b) Minimum Standards

## 1) Fire Protection

1) Based on the size of the facility, there shall be at least one fire extinguisher installed in the basement and on each floor for each 5,000 square feet of floor area.

2) Extinguishers shall be readily accessible to staff but not detainees. The local fire department shall be contacted regarding the location, type, and number of fire extinguishers.

3) Extinguishers shall be examined not less than once each year and shall be tagged with the date of inspection and initials of the inspector.

4) All jail personnel shall be familiar with the characteristics and use of fire extinguishers in the facility.

5) Prepare and post a fire plan requiring simulated fire drills, use of equipment, evacuation procedures, and other requirements of the Fire Marshal.

## 2) Emergency Exits

A) Emergency exits--doors--shall--be--clearly--indicated--with--at least 4-1/2-inch-black-letting--stating--"EXIT"--in--all capital-letters

1) The their location of emergency exits shall be made known to all jail personnel, and the keys for the doors shall be immediately available to jail staff.

2) There shall be two exits from each floor of detention. All means of egress shall be kept clean and open.

## 3) Horseplay

Detainees Residents shall be prohibited from engaging in wrestling, contact sports, horseplay, or any activity likely to that-could cause injury.

## 4) Safety Orientation

Detainees who volunteer and are assigned to vocational tasks shall be given a safety orientation prior to participation

(Source: Amended at 21 Ill. Reg. 300, effective 1/1/80)

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Section 701.160 Discipline

a) Introduction

- 1) Discipline is a system of rules which gives training by instruction, control and practice and includes administering punitive action. Equitable and consistent discipline is a prerequisite for proper jail operation.
- 2) Jail-trained staff is essential to good discipline within the jail. Jail officers have a responsibility to assist detainees in achieving acceptable behavior and self-control. A trained jail officer prevents situations that result in rule infractions. An officer who knows the operation of his post, the rules and the detainees assigned to his area of responsibility can anticipate circumstances that need special attention and thereby prevent difficulties.
- 3) Rules must be reasonable and evenly applied. Jail administrators cannot afford to have their decisions, arbitrary or unduly severe. A growing body of court decisions demonstrate that the civil rights of detainees will not be ignored. Courts have intervened to protect detainees from poor administrative decisions and practices that infringe upon those rights.
- 4) Just as rules must be reasonable, action taken to determine an alleged infraction must be based on findings of fact. Once proven, punitive action is compelled to recognize the offender's civil rights. Some court decisions have held administrators personally liable for monetary damages in instances of civil rights oversight.
- 5) It is important that disciplinary measures be related to the infraction and be fairly applied. Jail regulations and the possible consequences for infractions in writing provide consistent direction to both staff and detainees.

b) Minimum Standards

- a) Written Rules  
Jail rules and standards relating to discipline must comply with Section 3.1 of the County Jail Good Behavior Allowance Act, the following [730 ILCS 130/3.1] (41st Rev. Stat. 1965, par. 32-3):  
1) The jail administrators within 3 months after the effective date of this amendatory Act of 1986, the wardens who supervise institutions under the Act shall meet and promulgate agree upon uniform rules and regulations for behavior and conduct, penalties, and the awarding, denying, and revocation of good behavior allowance, in such institutions and such rules and regulations shall be immediately promulgated and consistent with the provisions of this Act. Inmate rules shall be provided by each warden consistent with the provision of this Act and shall be effective until the promulgation of uniform rules. All

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disciplinary action shall be consistent with the provisions of applicable law this Act. Committed persons shall be informed of rules of behavior and conduct, the penalties for violation thereof, and the disciplinary procedure by which such penalties may be imposed. Any rules, penalties and procedures shall be posted and made available to the committed persons.

- 2) Whenever a person is alleged to have violated a rule of behavior, a written report of the infraction shall be filed with the jail administrator within 72 hours of the occurrence of the infraction or the discovery of it, and such report shall be placed in the file of the institution or facility. No disciplinary proceeding shall be commenced more than 8 days after the date of discovery of it, unless the committed person is unable or unavailable for any reason to participate in the disciplinary proceeding.
- 3) All or any of the good behavior allowance earned may be revoked by the jail administrator warden, unless he or she initiated the charge, and in that case by the disciplinary board, for violations of rules of behavior at any time prior to discharge from the institution, consistent with the provisions of the this Act.
- 4) In disciplinary cases that may involve the loss of good behavior allowance or eligibility to earn good behavior allowance, the jail administrator warden shall establish disciplinary procedures consistent with the following principles:  
a) The jail administrator warden may establish one or more disciplinary boards, made up of one or more persons, to hear and determine charges. Any person who initiates a disciplinary charge against a committed person shall not serve on the disciplinary board that will determine the disposition of the charge. In those cases in which the charge is initiated by the jail administrator warden, he or she shall establish a disciplinary board which will have the authority to impose any disciplinary action.  
b) Any committed person charged with a violation of rules of behavior shall be given notice of the charge, including a statement of the misconduct alleged and of the rules this conduct is alleged to violate, no less than 24 hours before the disciplinary hearing.  
c) Any committed person charged with a violation of rules is entitled to a hearing on that charge, at which time he or she shall have an opportunity to appear before and address the jail administrator warden or disciplinary board deciding the charge.  
d) The person or persons determining the disposition of the charge may also summon to testify any witnesses or other persons with relevant knowledge of the incident. The person charged may be permitted to question any person so summoned.

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E1v1 If the charge is sustained, the person charged is entitled to a written statement, within 14 days after the hearing, of the decision by the jail administrator, warden or the disciplinary board which determines the disposition of the person charged. The decision shall include the basis for the decision and the disciplinary action, if any, to impose. E1v1 The jail administrator may impose, to discipline recommended by the disciplinary board, or may reduce the discipline recommended; however, no committed person may be penalized more than 10 days of good behavior allowance for any one infraction.

G1v1 The jail administrator, warden, in appropriate cases, may restore good behavior allowance that has been revoked, suspended, or reduced.

B12 Distribution of Rules

B1v1 Every detainee shall be provided with:

B1v1 Rules and regulations governing behavior.

B1v1 Types of penalties, including duration, which may be imposed.

B1v1 Who may Authority-authorized-to impose penalties.

E1v1 Authorized methods of seeking information and making complaints.

E1v1 All other matters necessary to enable the detainee him to understand both his or her rights and his obligations.

B1v1 If a detainee is transferred from one facility to another, this Section B1v1 shall be conveyed to him or her.

Special assistance shall be given to non-English speaking detainees.

C13 Complaints

C1v1 Each detainee shall be permitted to make requests or complaints to the jail administration in written proper form, without censorship as to substance.

C1v1 If not resolved at the local level, detainees may submit a complaint to the Jail and Detention Standards Unit. A copy of the local decision must be attached to the complaint.

G14 Detainees Reporting of Violations

Jail officers who observe disciplinary violations shall submit a written report of the incident.

G15 Violations Investigations and Penalties

G1v1 Decisions on investigations and penalties for disciplinary violations shall be made in accordance with disciplinary rules of the county jails.

G1v1 Supervisory staff shall conduct a review of the factors of an alleged minor rule violation within 24 hours after its occurrence.

The supervisor may modify the discipline taken. Detainees are treated as a result of a minor rule infraction shall be informed by supervisory staff of the results of his or her

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review. The detainee may submit a grievance to a higher authority.

B1v1 Sanctions shall not exceed 72 hours for minor rule violations. Violation of minor rules shall be classified as minor.

B1v1 Minor violations of conduct rules, those for which the penalty does not exceed a reprimand or the loss of privileges for more than 72 hours.

B1v1 Major violations are those for which the penalty may be more severe, such as loss of good time, transfer to segregation or isolation confinement, transfer to a higher classification of custody, any other change in status which may tend to affect adversely a detainee's time of release or discharge or the filing of additional charges subject to prosecution.

G1v1 Prehearing Rules for Major Violations

Rules governing major violations shall provide for specific procedures as follows:

B1v1 Someone other than the reporting officer shall conduct an investigation into the facts of the alleged misconduct to determine if a violation occurred and if there is probable cause to believe the alleged offender committed the violation. If probable cause exists, a hearing date shall be scheduled no later than 48 hours after occurrence of the alleged misconduct. The hearing shall be convened in accordance with subsection (B)(2) of this section B1v1.

B1v1 If a witness shall be offered assistance from a member of the jail staff, another detainee, or other authorized person to prepare for the hearing:

B1v1 No penalty shall be imposed until after the hearing, except that the accused may be segregated from the rest of the population or transferred to a different tier or cell block if jail authorities feel that the detainee he constitutes a threat to other detainees, staff members, or to himself or institutional order himself.

B1v1 Hearing Rules for Major Violations

B1v1 Rules governing major violations shall provide for a hearing on the alleged violation, and the hearing shall be conducted as follows:

B1v1 The hearing shall be held as quickly as possible in accordance with subsection (B)(1)(B).

B1v1 The hearing shall be before an impartial officer or committee which may include a public member.

B1v1 The accused shall be allowed to present evidence or witnesses in his or her behalf. However, witnesses may be denied if their testimony would be irrelevant or cumulative or if the hearing officer and security of the facility.

B1v1 The accused shall be asked those questions to the hearing officer or committee officer/committee to be asked of witnesses





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(Source: Amended at 21 Ill. Reg. 3033, effective \_\_\_\_\_)

## Section 701.180 Mail Procedures

## a) Introduction

1) Frequent communication with family, relatives, friends, and others concerned with the detainee is to be encouraged. It is essential to maintain maintenance of family ties, legal rights, and an eventual healthy reentry into the community.

2) Procedures for receiving and sending mail must protect the detainee's personal rights and provide for reasonable security practices consistent with the function of a jail.

## b) Minimum Standards

## a) Scope

1) A detainee may be allowed to correspond with anyone in the free community provided the correspondence is not of a nature involving any national factor, except as provided below.

A) A detainee shall not be allowed to correspond with the victim of his current or previous offenses, unless they have given their consent in writing.

B) A detainee may be permitted to correspond with an individual member of his immediate family or spouse who is incarcerated in another correctional or detention facility, provided joint prior approval of both chief administrative officers is obtained. Permission shall be based on safety and security concerns.

C) A detainee may not correspond with jail employees, contracted staff, or volunteers unless authorized in advance by the jail administrator.

2) All mail must clearly identify the sender and include any identifying numbers.

3) Failure to express disapproval within 15 days will be considered as approval.

4) The disapproval shall state the reason therefor and action shall be taken to protect the detainee's rights in accordance with court decisions regarding correspondence.

5) Incoming mail may receive incoming mail subject to the procedures outlined herein shall be permitted to receive an unlimited number of letters.

6) All incoming, non-privileged mail incoming mail shall be read, enclosed or reproduced but shall be opened and inspected examined for contraband prior to delivery or funds.

7) Cashier's checks, money orders, or certified checks or cash shall be recorded in the detainee's personal property record or trust fund account, indicating the sender, amount, and date.

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Personal checks and cash shall be returned to the sender, along with a notification that funds may not be received in that form.

4) Incoming mail letters containing contraband shall be held for further inspection and disposition by the jail administrator or chief administrator.

5) Contraband received shall be handled with care and labeled, and a log shall be maintained indicating the date of receipt, the name and address of the sender, the name of the detainee to whom it is addressed, and the names, names, and date of the persons permitted handling same.

6) The appropriate law enforcement agencies shall be notified and the items shall be maintained safeguarded in the event they are to be used as evidence in criminal proceedings or disciplinary action.

7) All incoming mail shall be delivered promptly distributed to the detainee within 24 hours of receipt, excluding weekends and holidays. A discharged or transferred detainee's first-class mail shall be forwarded to the detainee's unopened-if the forwarding address, if it is known. If no forwarding address is available, mail shall be returned unopened to the sender.

8) A detainee shall not be allowed to open, read, or deliver another detainee's mail without his or her permission.

9) A detainee may receive books and periodicals subject to inspection and approval by jail personnel. Packages may be received only if approved by administrative policy and remain subject to inspection before delivery being delivered to the detainee.

10) The jail administrator, sheriff or his or her designee may retain the right to spot check and read incoming non-privileged mail when there is reason to believe that jail security may be impaired or mail procedures are being abused.

11) When a detainee is prohibited from receiving a letter or portions thereof, the detainee and the sender shall be notified in writing of the decision.

12) Outgoing mail shall be permitted to send, at personal expense, an unlimited number of letters each week.

13) Postage shall be provided to indigent detainees for at least one letter per week.

14) Postage supplied to detainees is not transferable.

15) Appropriate stationery, envelopes, and a writing implement shall be supplied, but detainees may use such items as they themselves provide.

16) Detainees may not send packages by mail, unless granted permission to do so by the sheriff or jail administrator. The detainee shall provide for the postage cost for mailing a package.

17) A program permitting residents to send special messages or

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greeting--cards--for--anniversaries--birthdays--or--special holidays--such-as-Christmas--Easter--and-Mother's--Day--shall be implemented--providing-the-detainee-has-personal-funds-to pay-the-total-cost-of-such-communications.

3) Outgoing mail shall be clearly marked with the sender's name and identification number. Mail not clearly marked with the name and identification number shall be destroyed if the sender's identity is known, and if not, the mail shall be destroyed.

4) Outgoing mail shall be collected Monday through Friday and delivered to the U.S. Postal Service promptly on the same day. Every effort shall be made to ensure that outgoing mail is outgoing mail.

5) Outgoing non-privileged mail may be inspected and read. While outgoing mail shall not normally be read, censored or reproduced the jail shall retain the right to spot-check non-privileged outgoing mail by the sheriff or his designee to do so when it is believed that jail security may be impaired. Detainees except for privileged mail detainees shall submit all outgoing non-privileged mail in unsealed envelopes. Outgoing non-privileged mail received sealed shall be returned to the sender if the sender is identifiable. If the sender cannot be identified, the mail shall be destroyed. Outgoing non-privileged mail may be reproduced or withheld from delivery if it presents a threat to security or safety, including the following:

A) The letter contains threats of physical harm against any person or threats of criminal activity or threats of physical harm against any person or threats of criminal activity or threats of physical harm against any person or threats of criminal activity or threats of physical harm against any person.

B) The letter contains information regarding sending contraband into or out of the facility, plans to escape, or plans to engage in criminal activity.

C) The letter is in code and its contents cannot be understood by jail staff.

D) The letter violates any jail rules or contains plans to engage in activities in violation of jail rules.

E) The letter solicits gifts, goods, or money from other than family members.

F) The letter contains information which if communicated might result in physical harm to another.

G) The letter contains unauthorized correspondence with another offender or

H) The letter or contents thereof constitute a violation of State or Federal law.

I) The detainee shall be notified in writing of any outgoing mail withheld.

J) Certified or Registered Mail. Each jail shall establish procedures for processing certified or registered mail.

K) Determination of the appropriateness of such outgoing mail shall be the responsibility of the detainee.

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B) To send certified or registered mail, the detainee must have sufficient funds in his personal property or trust fund account and must attach a signed withdrawal voucher to the envelope for the application of proper postage and deduction of postage charges and other costs from his trust fund account. Blank withdrawal vouchers shall be provided by the jail.

C) Outgoing Letters from Detainees to persons or organizations listed on the Illinois Privileged Mail List shall be considered as privileged communications and shall be sealed by the designated staff for mailing. Such letters shall not be opened by the jail before mailing and shall be dispatched promptly.

1) A Federal or Illinois legislator elected or appointed federal or state officials including any U.S. Senator or Representative; Judges of any court or the Illinois Court of Claims any Federal Judge or Clerk of the Court any Federal Judge; the Director of the Federal Bureau of Prisons; and the Governor of the State of Illinois; any Illinois Circuit Court Judge or Supreme Court Judge; the Illinois Attorney General; and any member of the Illinois General Assembly.

2) The Director, Deputy Directors, or Assistant Deputy Directors of the Illinois Department of Corrections; the Deputy Director of the Bureau of Inspections and Audits of the Illinois Department of Corrections; the Chief of the Jail and Detention Standards and Services Unit of the Illinois Department of Corrections; and the Prisonary Executive, Secretary, and members of the Illinois Prisonary Executive Office and County Sheriffs.

3) Chief Executive Officer, Bureau of Investigation, Criminal Division of the Drug Enforcement Administration, the Criminal Division of the Department of Justice, and the United States Customs Service.

4) The John Howard Association.

5) Registered attorneys any attorney currently licensed to practice law.

6) Any organization which provides direct legal representation to detainees, but not including organizations which provide referrals to attorneys, such as bar associations. All correspondence addressed to legal aid organizations and any other organization whose official declared purpose is to provide legal services for detainees--these letters may be addressed either to paraprofessional personnel at the organization or to the organization's officer.

E) Incoming Privileged Mail means mail from sources identified in subsection (c) of this Section except for clerks of courts. Incoming privileged mail which is clearly marked as privileged from persons or organizations identified in the preceding standard may be opened



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only for the purpose of verifying the recipient address and the sender address and to ascertain that nothing other than privileged mail sent-and/or-official mail is enclosed. Privileged mail shall be opened Mail-opening-must-be in the presence of the detainee.

## §177 Disciplinary Denial

No disciplinary restrictions shall be placed on a detainee's mail privileges. Detainees shall not be denied mail rights for disciplinary purposes, however a serious violation of mail regulations may result in a loss of right of mail.

(Source: Amended at 21 Ill. Reg. 3035, effective \_\_\_\_\_)

## Section 701.190 Telephone

a) Detainees may place at least one telephone call each week. Additional calls may be permitted by the jail administrator.

b) Detainees may be required to bear the expense of any telephone calls they make or to place only collect calls. §1 Introduction Periodic use of the telephone to talk with family, friends, and relatives aids in creating and maintaining good morale within the Minimum Standards

§1 Right-to-Hire Telephone communication is a right when a detainee is first admitted to the jail.

§2 Telephone Program A scheduled program to permit each detainee to place at least one telephone call each week shall be established. Additional calls may be permitted at local administrative discretion. The expense for the making of a telephone call, if any, shall be borne by the detainee.

§3A A minimum of five minutes shall be allotted for each phone call.

§3B Telephone calls may shall not be monitored unless prior special arrangements have been made to make or receive confidential telephone calls to or from the detainee's attorney. A notice stating telephone calls may be monitored or recorded shall be posted by each telephone from which detainees may place calls.

§3 Violation of telephone rules

§4 Rules Violation of jail rules governing the use of the telephone program may shall be established. Violation of telephone rules may result in suspension of the detainee's use of the telephone telephone usage for a designated period of time.

(Source: Amended at 21 Ill. Reg. 3335, effective \_\_\_\_\_)

## Section 701.200 Visiting

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## a) Introduction

§1 Visits provide a direct and valuable means of communication between the detainee and his family and friends. Detainees look forward to receiving visits and visits should be encouraged. They bolster morale and may prove valuable to jail programs designed to aid the detainee's social readjustment.

§2 Visitor contact also provides the opportunity for the detainee to exhibit good behavior. For example, news of illness of the family, children, school problems, financial problems or real or imagined infidelity.

§3 Jail administrators must give close attention to rules which control visiting. Severely restrictive regulations have been overturned by court decisions; however, security is threatened when procedures are not controlled.

## b) Minimum Standards

## §1 Visitation Regulations

The jail administrator shall prescribe regulations relative to visits with detainees.

§1A Regulations shall provide a schedule identifying no fewer than two visiting days each week, one of which must be during the weekend.

§1B At least one visit per week per detainee shall be allowed, except when an individual detainee has been assessed a disciplinary penalty for a visiting regulation infraction.

§1C Visits shall not be restricted to extended visits. Visits may be granted by the jail administrator for visitors who travel great distances.

§1D Two or more persons permitted to visit at the same time shall count as a single visit.

§1E There shall be no age restriction on visitors when a child is accompanied by a parent or guardian.

§1F Visits by Attorneys, Probation Officers, Pretrial Service Officers, and Clergy Attorneys

§1G Attorneys, probation officers, pretrial service officers, and clergy from recognized religious groups are exempt shall be permitted to visit detainees at reasonable hours other than during regularly scheduled visiting hours or periods and such visits shall not count as an allotted visit.

§2 An area for interview between a detainee and his or her attorney, probation officer, or pretrial service officer or attorney shall be provided and arranged so as to ensure privacy.

## §3 Security Precautions

§3A Visits can be a grave security risk; however, under proper supervision, the risk can be reduced. All visitors shall be required to sign the visitor register or visitor card and provide identification before being permitted to visit a detainee. Jail

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staff may interview of request background information from potential visitors to determine whether they pose a threat to safety of security of the jail.

4) Visitation--Maximum Security Classification  
Detainees requiring maximum security classification must be given special attention during visitation.

5) Non-Security Area Visitation  
In-jails where visitation is conducted in an open room or area because of previous jail contraband limitations--constant visual supervision by jail staff must be exercised.

2) Detainees must be thoroughly searched before and after each visitation unless the visit is conducted via such means as video visitation.

3) Visitors and items brought onto jail property are subject to search and a search notice sign must be conspicuously posted.

4) In jails where visitation is conducted in an open room or area, constant visual supervision by jail staff must be exercised.

(Source: Amended at 21 Ill. Reg. 3835, effective \_\_\_\_\_)

Section 701.210 Social Service Programs

a) Introduction

1) Social services for detainees have generally been overlooked. Modern correctional thought emphasizes that all jails, regardless of size, must provide necessary treatment services in order to fulfill the full spectrum of obligations. Treatment services are used in a broader sense than the aggregate of jail experiences rather than the traditional clinical concept of medical or psychological therapy.

2) Social work has been intensified to reverse criminal trends through placement in pre-arrest, pre-arrest, and post-arrest programs.

3) The philosophy of prevention, rehabilitation, and treatment of offenders and prevention of further antisocial behavior are essential factors in controlling crime. The protection of society through humane care of persons in detention and services required to maintain the physical, social, and emotional health of detainees must be firmly established to implement this philosophy.

b) Minimum Standards

Jails are encouraged to provide Social Service Programs and enlist volunteers including volunteer workers and groups such as Alcoholics Anonymous, Gamblers Anonymous, religious volunteers, and volunteer counselors or groups offering needed services, shall be invited to participate in the jail programs.

(Source: Amended at 21 Ill. Reg. 3835, effective \_\_\_\_\_)

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Section 701.220 Education

a) Introduction

1) Education programs for both academic and vocational not only reduce illiteracy but assist in meeting basic needs of detainees.

2) Educational programs can be developed with the aid of community resources and interested citizens. Many detainees welcome the opportunity to sharpen their academic skills.

3) Non-school authorities may provide teachers and information regarding financial aid available through governmental agencies.

4) Jails are encouraged to provide relevant educational programs which include the inmate that programs that may be developed at the level of the adult basic education course. Courses at reducing the level of illiteracy by increasing individual reading capability, encouraging writing skills, explaining basic arithmetic, and providing an opportunity for detainees to learn more about community business and social activities which affect their lives.

2) Elementary and High School Courses that are specific or general. Depending upon the aim of the detainee, these courses may serve to provide knowledge related to a definite interest or be suitable for a continued educational program in the community after release.

3) General Education Development (G.E.D.) courses to prepare qualified detainees for the G.E.D. test so they can earn a high school equivalency diploma.

4) Correspondence Courses for both high school students and graduates can be arranged through local school districts, state colleges, and universities.

5) Social Education taught by instructors from local schools and colleges, volunteers from community agencies, and university students. Detainees in understanding self-concept, how to modify existing behavior, and how to understand and relate to others. Detainees, individually or in groups, are introduced to acceptable methods of finding and getting a job. They may also be introduced to vocational requirements such as proper work habits, job performance, personal relationships, and keeping a job. Jail personnel can assist detainees in obtaining birth certificates and social security numbers, to find suitable employment after release, and to utilize the services of community agencies such as local unions, employment offices, and private agencies or industries.

b) Minimum Standards

1) Educational Materials

2) Educational information and academic materials shall be permitted and

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made accessible to detainees.

2) Vocational Materials

- c) Vocational information and materials shall be permitted and made accessible to detainees, provided their presence does not jeopardize security.

(Source: Amended at 21 Ill. Reg. 3035, effective \_\_\_\_\_)

Section 701.230 Library

a) Introduction

- 1) Federal and state court decisions have underscored the detainees' right of access to any reading material except pornography as defined by the courts or reading matter which might pose an imminent threat to jail security.

- 2) The right to read is extremely important for the detainee to develop greater self-awareness, a better understanding of the social and governmental systems and to gain information usable in the community. It is also important for the detainee to have every opportunity for access to printed material pertinent to his personal needs, just as important is the opportunity to have relief from boredom and a chance to reduce aggressiveness through recreational reading and related library services.

b) Minimum Standards

1) Library Services

- a) Library services shall be made available to all detainees. Library materials shall include up-to-date informational, recreational, legal, and educational resources appropriate to individual detainees.

- 1) All detainees access to current Illinois Compiled Revised Statutes shall be provided.

- 2) All detainees access to current jail rules and regulations shall be provided.

b) Written Policy

- a) There shall be a written policy covering the library's day-to-day activities and schedule.

3) Library Personnel

- c) Where the level of need does not require full-time library personnel, where the level of need requires a public library system on-site staff, and where there shall be jail staff assigned to the library job assignment, the jail shall include responsibility for on-going development and maintenance of the library and liaison with a public library.

(Source: Amended at 21 Ill. Reg. 3035, effective \_\_\_\_\_)

Section 701.240 Religious Services

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Minimum Standards

- a) Religious Services Detainees shall be afforded an opportunity to participate in religious services and receive religious counseling.
- b) Commissary Participation Detainees shall not be required to attend or participate in religious services or discussions.

(Source: Amended at 21 Ill. Reg. 3035, effective \_\_\_\_\_)

Section 701.250 Commissary

a) Introduction

- 1) A commissary provides a valuable morale and control factor in a jail operation. Items can be made available to detainees that are otherwise denied because the jail cannot supply them. The commissary provides a range of services to the inmate, such as the sale of commodities and provides a source of grooming and personal hygiene items.

b) Minimum Standards

1) Establishment of a Commissary

- a) Each jail shall establish and maintain a commissary system to provide detainees with approved items that are not supplied by the jail.

2) Management of a Commissary

- b) No member of the staff shall gain personal profit, directly or indirectly, as a result of the commissary system.

3) Commissary Fees

- c) Prices charged detainees shall not exceed those for the same articles sold in local community stores nor shall the prices charged for postal supplies exceed those for the same articles sold at local post offices.

4) Schedule

- d) Commissary shall be provided on a regularly scheduled basis and not less than once weekly.

5) Purchases

- e) Commissary purchases must be reflected by a debit entry on the commissary account on record. Entry must be initiated by the detainee or a receipt must be issued.

6) Profits

- f) All profits from the commissary shall be used for detainee welfare, and such monies shall be subject to audit.

(Source: Amended at 21 Ill. Reg. 3035, effective \_\_\_\_\_)

Section 701.260 Recreation and Leisure Time

a) Introduction

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- 1) Properly organized recreation and leisure time programs can do much to relieve idleness and boredom and provide constructive activities. A regular recreational activities schedule which permits strenuous exercise helps to lower tensions and reduce disciplinary problems and mental health problems.
- 2) These activities should be scheduled in the day rooms, exercise rooms or yards, multipurpose rooms and other available space to provide equal opportunities for all detainees to participate in programs of their choice and abilities. Athletic programs, radio, television, motion pictures, arts and crafts, and card games should be planned, equipment obtained, and scheduled. Tools and materials which can be used for unauthorized purposes must be carefully controlled.
- 3) Minimum Standards
- a) All construction designs submitted for approval after publication of these standards must include an exercise room or any other yard or sufficient area to allow strenuous physical exercise. A day room may be designated as an exercise room provided the minimum standards for exercise areas are met.
- b) The exercise area shall be appropriately equipped and utilized within the limitations of security requirements.
- c) Detainees shall be allowed in the exercise area for no less than one hour per day unless the sheriff or jail administrator determines that participation in such activity by a particular detainee or group of them is harmful or dangerous to the security of any or more of the facility.
- d) Recreation and leisure time activities should be planned and scheduled.
- e) Tools and material which can be used for unauthorized purposes must be carefully controlled.

(Source: Amended at 21 Ill. Reg. 3033, effective \_\_\_\_\_)

## Section 701.270 Juvenile Detention

- a) Statutory Provisions Introdution
- Sections 5-3 and 5-7 of the Juvenile Court Act of 1987 [205 ILCS 405/5-3 and 5-7] which Rev. Stat. 1990 Supp. ch. 377, para. 405-3 and 405-7, state:
- 1) "Delinquent Minor" means any minor who prior to his or her 17th birthday has violated or attempted to violate, regardless of where the act occurred, any Federal or state law or municipal ordinance.
- 2) "Detention" means the temporary care of a minor alleged or adjudicated as a person described in subsection (a)(1) of this

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- section who requires secure custody for his or her own or the community's protection in a facility designed to physically restrict his or her movements, pending disposition by the court for placement or commitment. Design features which physically restrict movement include, but are not limited to, locked rooms and the secure handcuffing of a minor to a rail or other stationary object.
- 3) "Juvenile Detention Home" means a public facility with specially trained staff that conforms to the County Juvenile Detention Standards county juvenile detention standards (20 Ill. Adm. Code 702).
- 4) Except as otherwise provided in subsections subsection (a)(5) through (b) of this section, no minor shall be detained in a county jail or municipal lockup for more than six hours.
- a) The period of detention is deemed to have begun once the minor has been placed in a locked room or cell or handcuffed to a stationary object in a building housing a county jail or municipal lockup. The period of detention shall not be considered to be time in detention or custody if the minor is not with a minor so confined shall be under periodic supervision and shall not be permitted to come into or remain in contact with adults in custody in the building.
- b) Upon placement in secure custody in a jail or lockup, the minor shall be informed of the purpose of the detention, the time it is expected to last, and the fact that it cannot exceed six hours.
- c) A log shall be kept that shows the offense which is the basis for the detention, the reasons and circumstances for the decision to detain, and the length of time the minor was in detention.
- d) Violation of the 6-hour time limit on detention in a county jail or municipal lockup shall not, in and of itself, render inadmissible evidence obtained as a result of the violation or this 6-hour time limit.
- e) No minor under 16 years of age may be confined in a jail or lockup ordinarily used for the confinement of prisoners in a police station. No minor under 17 years of age shall be kept separate from confined adults and not be in the same cell, room or yard with adults confined pursuant to criminal law.
- f) If a minor age 12 or older is confined in a county jail in a county with a population below 3,000,000 inhabitants, then the minor's confinement shall be implemented in such a manner that there will be no contact by sight, sound or otherwise between the minor and adult prisoners. Minors age 12 or older must be kept separate from confined adults and may not at any time be kept in the same cell, room, or yard with confined adults. This subsection (a)(5) shall only apply to confinement pending an





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Confinement

- 5) Meals and snacks shall be provided with meals in accordance with Section 111.1010, when they are detained during the facility's normal meal periods.
  - 6) Child Abuse
  - 12) Any evidence of child abuse shall be reported to the Illinois Department of Children and Family Services in accordance with 69 Ill. Adm. Code 300.
  - 13) Staff who will supervise youth pending an adjudicatory hearing shall be trained in the methods and techniques of juvenile case law standards approved by the Illinois Law Enforcement Training Standards Board.
  - 14) To accept and hold minors after 36 hours, excluding Saturdays, Sundays, and court designated holidays, but not to exceed seven days, including Saturdays, Sundays, and court designated holidays, the jail shall comply with the additional temporary standards for detention pending an adjudicatory hearing outlined in Section 701.280.
  - 15) To accept and hold minors beyond seven days, including Saturdays, Sundays, and court designated holidays, the jail shall comply with all programmatic and training standards outlined in 20 Ill. Adm. Code 701.280.
  - 16) To accept and hold minors under 17 years of age who have been prosecuted under the Criminal Code of 1961 and confined to a county jail as directed by court order, the jail shall comply with the additional standards outlined in Section 701.290.
- c) Minimum Standards for Retention of Youth Prosecuted Under the Criminal Code of 1961
- The standards in the preceding Sections of this Part apply equally to minors under 17 years of age who are prosecuted under the Criminal Code of 1961; the following standards provide additional requirements or restrictions of emphasis on detention standards for minors confined to a county jail as directed by court order:
- i) Retention Admissions
    - Only those youth who are at least 15 years of age, who are being prosecuted under the Criminal Code of 1961, and who are being confined in a county jail under order may be held in excess of six hours.
    - A) When a minor is delivered to the jail, a probation officer or such other public official designated by the court shall immediately investigate the circumstances of the minor and the minor's parents or guardian, and shall refer the matter to the court. The jail officer receiving the minor shall determine whether the minor is being confined under proper legal authority.
    - B) A parent, legal guardian, or person with whom the minor resides shall be notified of the location of confinement--if

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- the law enforcement officer or court officer has been unable to do so:
- 2) Records
    - A) Records of all minors under 17 years of age must be maintained separate from the records of adult arrests. Names of juveniles shall not be recorded in the same index as jail receipts, monthly population reports or other records that are subject to public review.
    - B) Records shall not be open to public inspection or their contents disclosed to the public except by order of the court or when the institution of criminal proceedings has been permitted or the person has been convicted of a crime and is the subject of pre-sentence investigation or proceedings on an application for probation.
  - 3) Confinement
    - Minors under 17 may be confined in cells or rooms in a jail or place ordinarily used for confinement of prisoners at a county jail but these cells or rooms for the minors must be separate and distinct from the cells or rooms in which adults are confined. This does not preclude the very brief use of entrance corridors, elevators and booking areas prior to actual confinement.
    - A) Separate and distinct shall mean no visual and/or auditory contact.
    - B) The same jail facilities may be used, but not simultaneously with adults.
  - 4) Supervision
    - Staff providing supervision for minors under 17 shall receive training in the methods and techniques of juvenile care.
    - A) Supervision of minors under 17 shall be maintained by visual contact with each youth no less than once every 30 minutes.
    - B) A shift log in ink shall be maintained as a record of incidents and activities including supervisory checks occurring on the shift.
    - C) Supervision shall be provided by a person of the same sex under the following conditions:
      - i) When procedures which require physical contact or examination such as body searches are made.
      - ii) During periods of personal hygiene activities and care such as showers, toileting and related activities.
    - B) This standard does not prohibit the use of necessary force by a staff member of a sex other than that of a detainee.
  - 5) Housing and Day Rooms
    - A) To ensure the maximum possible security, sanitation and personal freedom, minors shall be assigned single occupancy cells or detention rooms.
    - B) At least 50 square feet of floor space should be provided in each cell.

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- 6) At least 64 square feet of floor space should be provided for each detention room.
- 7) A dayroom area should be provided with a minimum of 35 square feet per detained minor for each cellblock or detention room cluster.
- 8) Each sleeping area shall be equipped with a rigidly constructed metal bed securely fastened to the wall or floor of a concrete sleeping surface face Section 701.00(b)(3)(f); a toilet, washbasin with hot and cold running water, a suitable flame retardant mattress, mattress covering and bed covers suited to individual needs; and stimulation sufficient to guarantee distinct visual stimulation and a comfortable bedding level.
- 6) Personal hygiene showers shaving and other personal hygiene activities shall conform at minimum with those standards pertaining to adult detainees.
- 7) Food Service
- A) Food preparation menu dicty food service and meal schedules shall conform to the needs of growing adolescents. A minimum of 2,500 to 3,000 calories per day shall be provided.
- B) Food service dining areas shall not be shared simultaneously with adults.
- 8) Activities
- Each youth shall be offered a minimum of eight hours daily of dayroom and recreation activity except when the youth's behavior endangers required security jeopardizes the safety and well-being of staff and other detained youth or is a threat to himself or to protect property.
- A) Appropriate reading materials table games in sufficient quantities and radio and/or television shall be provided.
- B) Recreation and athletic nature shall be offered and maintained in facilities exist outdoor activities shall be scheduled.
- 9) Education
- A) A regular academic of academic instruction and related educational services appropriate to the needs of each individual shall be provided for those youth detained beyond 36 hours with arrangements made through the appropriate local school district.
- B) Educational classes may be scheduled.
- 10) Psychiatric and Social Services
- Access to psychiatric psychological casework and counseling services shall be provided as needed in individual cases.
- 11) Visiting
- A) A liberal visiting schedule shall be established identifying no fewer than two visiting days each week one of which must

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- bc--during the evening hours and one during the weekend and including all holidays.
- B) Visits from attorneys clergy social workers probation officers or other persons professionally associated with a youth's case shall be permitted at reasonable non-scheduled hours these visits shall not count against any limitation which may be placed on the number of visits allowed.
- 12) Child Abuse and Neglect
- When evidence of child abuse such as is defined in Section 119A-3(1) is received by the Code of Criminal Procedure of 1963 (Ill. Rev. Stat. 1969) ch. 38, par. 119A-3(1) at least one report shall be made to the Illinois Department of Children and Family Services.

(Source: Amended at 21 Ill. Reg. 300, effective )

## Section 701.280 Temporary Detention Standards

In addition to the standards in Section 701.270, the standards in this Section apply to any juvenile remanded to the custody of the sheriff who is being detained in excess of 36 hours for up to seven days.

- A) Each youth shall be offered a minimum of two hours of dayroom activity and at least one hour of physical activity daily except when the youth's behavior endangers required security jeopardizes the safety and well-being of staff and other detained youth is a threat to oneself or is likely to cause damage to property.
- 1) Appropriate reading materials table games in sufficient quantities and radio and/or television shall be provided.
- 2) When appropriate facilities exist outdoor activities shall be scheduled.
- 3) This standard cannot be met by placing the youth in a room with a radio or television; it requires opportunities for appropriate social interaction by youth.
- B) Academic instruction shall be provided for a minimum of four hours per day, excluding weekends and holidays. The academic instruction shall be appropriate to the educational needs of each individual youth but must be provided in person by a trained teacher or tutor. Arrangements for the instruction may be made through the local or regional school district.
- C) Access to medical, psychiatric, psychological, casework, and counseling services shall be provided as needed in individual cases.
- D) A daily visiting schedule shall be established which includes evening hours. At least one visit a day shall be afforded.
- E) Visits from attorneys clergy social workers probation officers or other persons professionally associated with a youth's case shall be permitted at reasonable non-scheduled hours. These visits shall not count against any limitation which may be placed on the number of



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visits allowed.

- f) At least one telephone call a day may be placed or received.
- g) Every youth shall be provided with a copy of the written rules and regulations governing behavior which shall include:
- 1) A description of conduct constituting a penalty offense;
  - 2) The types and durations of penalties which may be imposed;
  - 3) The method or conditions under which penalties may be imposed; and
  - 4) Persons authorized to impose discipline; and
- h) The process for seeking information and making complaints, including time frames for resolution of complaints and appeal procedures.

- b) Minor rule violations shall be reviewed by the jail administrator within 24 hours after the occurrence of the offense; major rule violations shall be reviewed by the jail administrator within 36 hours after the occurrence of the offense.

(Source: Added at 21 Ill. Reg. 3835, effective

## Section 701.290 Standards for Detention of Youths Prosecuted Under the Criminal Code of 1961

In addition to the standards in Section 701.270, the standards in this Section apply to any juvenile remanded to the custody of the sheriff who is being prosecuted under the Criminal Code of 1961.

- a) When a minor is delivered to the jail, a probation officer or such other public official designated by the court shall immediately investigate the circumstances and the facts surrounding the minor's being taken into custody. The jail officer accepting persons for confinement must determine that each is being confined under proper legal authority.
- b) A dayroom area with a minimum of 35 square feet per cell or detention room shall be provided for each cellblock or detention room cluster.
- c) Each youth shall be offered a minimum of 4 hours daily of a dayroom for recreation purposes. Recreation shall be provided for all youth and shall be supervised by a minimum of 2 staff members. The recreation area shall be secured by a perimeter fence and shall be equipped with safety and well-being of staff and other detained youth. A threat to oneself or is likely to cause damage to property.
- d) Appropriate reading materials, table games in sufficient quantities, and radio and television or both shall be provided.
- e) Recreation of an energetic nature shall be offered. Where appropriate facilities exist, outdoor activities shall be scheduled.
- f) A regular schedule of academic instruction and related educational services appropriate to the needs of each individual shall be provided for those youth detained beyond 36 hours with arrangements made through the appropriate local school district. Vocational classes may be scheduled.

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- e) Access to psychiatric, psychological, casework, and counseling services shall be provided as needed in individual cases.
- f) A liberal visiting schedule shall be established identifying no fewer than two visiting days each week, one of which must be during the evening hours and one during the weekend. Visiting shall be permitted on all holidays.

- g) Visits from attorneys, clergy, social workers, probation officers or other persons professionally associated with a youth's case shall be permitted at reasonable non-scheduled hours. These visits shall not count against any limitation which may be placed on the number of visits allowed.

(Source: Added at 21 Ill. Reg. 3835, effective

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1) Heading of the Part: Licensing Requirements For Source Material Milling Facilities

2) Code Citation: 32 Ill. Adm. Code 332

<u>Section Number:</u>	<u>Adopted Action:</u>
332.10	Amendment
332.40	Amendment
332.40	Amendment
332.60	Amendment
332.70	Amendment
332.100	Amendment
332.110	Amendment
332.140	Amendment
332.150	Amendment
332.170	Amendment
332.240	Amendment
332.250	Amendment
332.280	Amendment
332.290	Amendment

4) Statutory Authority: Implementing and authorized by the Radiation Protection Act (420 ILCS 40) and the Uranium and Thorium Mill Tailings Control Act (420 ILCS 42).

5) Effective Date of Amendments: March 13, 1997

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? Yes, the amendment contains material incorporated by reference pursuant to Section 100/5-75(a) of the Administrative Procedure Act [5 ILCS 100/5-75(a)].

8) Date Filed in Agency's Principal Office: March 12, 1997

9) Notices of Proposal Published in Illinois Register: November 15, 1996, 20 Ill. Reg. 14683

10) Has JCAR issued a Statement of Objections to this rule? No

11) Difference(s) between Proposal and Final version:

- a) In the Main Source Note and Section Source Notes, the number "20" has been changed to the number "21".
- b) In Section 332.110(a), in line 662, by reinstating the comma after "regulations".

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c) In Section 332.110(a), in line 663, by reinstating the comma after "revision".

d) In Section 332.110(a), in line 665, by adding a comma after "with".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the amendment letter issued by JCAR? Yes

13) Will this proposed amendment replace an emergency rule currently in effect? No

14) Are there any other amendments pending on this Part? No

15) Summary and Purpose of Amendments: This amendment will: (a) update citations to federal regulations that are incorporated by reference; (b) update citations to other department regulations that are incorporated by reference; (c) add citations to the Illinois Compiled Statutes (ILCS); (d) delete the definitions of "Monitoring", "Restricted area", "Source material" and "Special nuclear material" from the definition section because these terms have been defined in 32 Ill. Adm. Code 310; (e) clarify the radiation standards to reflect current terminology and dose limits; (f) add a requirement that records maintained by the licensee shall be held in a format allowing for easy access and review by the Department; (g) update references to other department regulations; and (h) meet NRC's part 20 compatibility issues.

16) Information and questions regarding this adopted amendment shall be directed to:

Robert B. Holtsclaw  
Staff Attorney  
Department of Nuclear Safety  
1035 Oakbrook Drive  
Springfield, Illinois 62704  
(217) 524-1003 (voice)  
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The full text of the Adopted Amendment begins on the next page:

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## NOTICE OF ADOPTED AMENDMENT(S)

## TITLE 32: ENERGY

## CHAPTER 11: DEPARTMENT OF NUCLEAR SAFETY

## SUBCHAPTER b: RADIATION PROTECTION

## PART 322

## LICENSING REQUIREMENTS FOR SOURCE MATERIAL MILLING FACILITIES

## Section 322.10

## Purpose and Scope

## 322.10 Definitions

## 322.20 License Required

## 322.30 Application Content and Procedure

## 322.40 General Information

## 322.50 Technical Analyses

## 322.60 Financial Information

## 322.70 Evaluation of License Application and Issuance of a License

## 322.80 General Conditions of Licenses

## 322.90 Applicable Regulations

## 322.100 Agents of Application for Site Closure and Stabilization

## 322.110 Postclosure Observation and Maintenance

## 322.120 Termination of Source Material Milling Facility License

## 322.130 General Requirements

## 322.140 Protection of the General Population from Radiation

## 322.150 Protection of Individuals from Inadvertent Access

## 322.160 Protection of Individuals During Operations

## 322.170 Stability of the Byproduct Material Disposal Site After Closure

## 322.180 Technical Criteria for Byproduct Material Disposal Sites - Siting

## 322.190 Criteria

## 322.200 Technical Criteria for Byproduct Material Disposal Sites - Design

## 322.210 Criteria

## 322.220 Technical Criteria for Byproduct Material Disposal Sites - Control of

## 322.230 Sites - Groundwater Protection

## 322.240 Radiation Hazards

## 322.250 Technical Criteria - Source Material Milling Operations

## 322.260 Financial Safety Requirements

## 322.270 Long Term Payment

## 322.280 Land Ownership

## 322.290 Maintenance of Records, Reports, and Transfers

AUTHORITY: Implementing and authorized by the Radiation Protection Act of 1990 (420 ILCS 40) and the Uranium and Thorium Mill Tailings Control Act [420 ILCS 420].

SOURCE: Adopted at 14 Ill. Reg. 1333, effective January 5, 1990; amended at 18 Ill. Reg. 3128, effective February 22, 1994; emergency amendment adopted at 18

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Ill. Reg. 17933, effective December 1, 1994, for a maximum of 150 days; amended at 19 Ill. Reg. 6601 effective April 28, 1995; amended at 21 Ill. Reg. 9887, effective \_\_\_\_\_.

## Section 332.10 Purpose and Scope

## a) This Part establishes:

- 1) Procedural requirements and technical criteria applicable to the disposal of byproduct material as defined in this Part and provides for the protection of the public health and safety during and after source material milling operations.
- 2) Specific technical and financial requirements for source material milling facilities, including their construction, operation and decommissioning, decontamination, reclamation and ultimate stabilization, postclosure activities, license transfer and termination, facility ownership and ultimate custody.
- 3) Procedures, criteria and conditions upon which the Department of Nuclear Safety (Department) issues specific licenses for source material milling and disposal of the byproduct material. The regulations in this Part establish procedures, criteria and conditions upon which the Department of Nuclear Safety issues specific licenses for source material milling and disposal of the byproduct material. These procedures are intended to ensure the protection of people and the environment during and after source material milling. The regulations in this Part do not establish procedures and criteria for the issuance of licenses for materials covered under Title I of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901-7903). The regulation by the State of the Atomic Energy Act as amended defined in Section 11(e)(2) of the Atomic Energy Act as amended 42 U.S.C. 7904(e)(2) is subject to the provisions of an agreement between the State and the U.S. Nuclear Regulatory Commission (NRC) in the absence of such agreement. The regulations in this Part shall not be enforceable against any source material milling facility.

- b) Unless in addition to the requirements of this Part, unless specified otherwise, source material milling all licensees are subject to the requirements of 32 Ill. Adm. Code 310, 320, 330, 331, 340, 341, 400 and 601, and 35 Ill. Adm. Code 302.208, 302.304, 303.202, and 303.203. This regulation in this Part does not do apply to disposal of licensed material as defined in 32 Ill. Adm. Code 601. This Part does not establish procedures for the issuance of licenses covered under Title I of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901). The regulation by the State of byproduct material as defined in Section 11(e)(2) of the Atomic Energy Act (42 U.S.C.A. 7904(e)(2)) is subject to the provisions of an agreement between the State and the U.S. Nuclear Regulatory Commission (NRC). In the absence of such



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"decommissioning" means to remove (as a facility) safely from service and reduce residual radioactivity to a level that permits release of the property for unrestricted use and termination of the license.

AGENCY NOTE: The byproduct material disposal site is not decommissioned because it will neither be released for unrestricted use nor be unlicensed. Land ownership and custody will be maintained by the State or the Federal Government as required by Section 332.280 of this Part. Portions however--portions of the licensed site other than the actual byproduct material disposal site are decommissioned.

"dike" means an embankment or ridge of either natural or man-made materials used to prevent the movement of liquids, sludges, solids or other materials.

"disposal area" means the area containing byproduct material to which the requirements of Sections 332.120, 332.189g, and 332.240 of this Part apply. The disposal area includes only the surface area of the land immediately underlain by byproduct material and does not include any embankments, dams or other support structures which surround the byproduct material.

AGENCY NOTE:--The disposal area includes only the surface area of the land immediately underlain by byproduct material and does not include any embankments, dams or other supporting structures which surround the byproduct material.

"disposal site" means the land transferred to the State or Federal Government pursuant to under Section 332.280 of this Part. This land includes the disposal area, any surrounding embankments or dams that contain the byproduct material.

"existing portion" means that land surface area of an existing surface impoundment or disposal area on which significant quantities of byproduct material have been placed prior to September 30, 1983.

"Funda" means the "The Radiation Protection Funda. See 420 ILCS 40/3517. 332-Rev-Stat-1987-ch-111-1/37-par-2184c."

"groundwater" means water below the land surface in a zone of saturation. For purposes of this Part, groundwater is the water contained within an aquifer as defined in this Section.

"leachate" means any liquid, including any suspended or dissolved components in the liquid, that has percolated through or drained from the byproduct material.

"licensed site" means the area contained within the boundary of a location under the control of persons generating or storing byproduct

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material under a Department license.

AGENCY NOTE: The licensed site would include, at a minimum, any actual or proposed disposal areas and sites, any additional land used by the licensee for the generation of and storage of byproduct material and any buffer zones. Normally, such additional this-latter land areas and any buffer zones will be decommissioned and reclaimed, and not subject to land transfer pursuant to under Section 332.280 of this Part.

"liner" means a continuous layer of natural or man-made material beneath, or on the sides of, a surface impoundment which restricts the downward or lateral escape of byproduct material, hazardous constituents or leachate.

"long-term care" means the period following postclosure and termination of a license issued pursuant to under this Part during which surveillance and monitoring activities are conducted by a State or Federal Agency Agency.

"minor custodial activities" means maintenance activities under State specific license, not necessary to preserve the isolation of the byproduct material. Such activities could include repair of fencing, repair or replacement of monitoring equipment, minor additions to or repair of disposal area cover and general disposal site upkeep such as mowing grass.

"monitoring"--means--observing-and-making-measurements-to-provide-data-to-evaluate-the-performance-and-characteristics-of--a--licensed-or-disposal-site

"point of compliance" means the site specific location in the uppermost aquifer where the groundwater protection standard must be met.

"postclosure" means the period of time from completion of the closure plan for decontamination, reclamation and stabilization of the source material, milling facility, byproduct material surface impoundment and disposal area, but prior to the termination of the license.

"reclamation" means the following activities performed at a licensed site as a part of closure:

stabilize and isolate byproduct material contained within a disposal site. This may include relocation of the byproduct material;

backfill with uncontaminated soil any disturbed areas to achieve a topography compatible with surrounding terrain;

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recontour land to support surface drainage; and  
 revegetate as necessary.

"Restricted-area" means any area access to which is controlled by the licensee for purposes of protection of individuals from exposure to radiation and radioactive material; the restricted area shall not include any areas used for residential quarters although a separate room or rooms in a residential building may be set apart as a restricted area.

"Source material" means:

uranium or thorium or any combination thereof in any physical or chemical form or ore which contains by weight one-twentieth of one percent (0.05%) of thorium or any combination of thorium and uranium or thorium; source material does not include special nuclear material;

"Source material milling" means any operation in which uranium or thorium is extracted and concentrated from ore processed primarily for its source material content. This includes solution mining and heap leaching and any other operation which generates byproduct material as defined in this Part.

"Special nuclear material" means:

plutonium-239, uranium-233, uranium-235, or in the isotope-233 or in the isotope-235, and any other material which the U.S. Nuclear Regulatory Commission determines to be special nuclear material or any material artificially enriched by any of the foregoing.

"Surface impoundment" means a natural topographic depression, man-made excavation, or diked area, which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well.

"Surveillance" means monitoring and observation of the disposal site for the purposes of visual detection of the need for maintenance, custodial care, evidence of unauthorized access, and compliance with other license and regulatory requirements.

"Uppermost aquifer" means the geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.

(Source: Amended at 21 Ill. Reg. 3007, effective

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## Section 332.40 Application Content and Procedure

- a) In addition to the requirements set forth in 32 Ill. Adm. Code 330.250, an application filed pursuant to this Part shall contain the required information as set forth in Sections 332.30 through 332.30.02 this Part.
- b) The Department will review the application for completeness within sixty (60) days after receipt of the application and will notify the applicant whether or not the applicant's application is acceptable for filing. This review of the application shall not constitute the Department's approval of the adequacy of the information and data contained in the application.
- c) The Department may at any time after the filing of the original application, and before the expiration of the license, require further statements or data to enable the Department to determine whether the application should be denied or whether a license should be granted, modified or revoked.
- d) A license application may include a request for a licensee to engage in one or more activities, provided that the application specifies the additional activities for which licenses are requested and complies with regulations of the Department as to application for such licenses.
- e) In any application, the applicant may incorporate by reference information contained in previous applications, statements or reports filed by the applicant with the Department. Such reference shall identify the document being referenced by subject, date and page number.
- f) All materials considered by the applicant to be proprietary or confidential in nature shall be separated and marked proprietary or confidential by the applicant before submission to the Department, and sealed in separate packages. These materials shall be referenced as separate applications. Public inspection of applications and other documents submitted to the Department pursuant to this Section shall be in accordance with 2 Ill. Adm. Code 1076 and the requirements of the Freedom of Information Act (5 ILCS 140/1).
- g) Thirty (30) copies of an application for a specific license, or amendment thereto, shall be filed with the Department.
- h) Each application for a specific license, or amendment thereto, shall be accompanied by the fee prescribed in 32 Ill. Adm. Code 331.00 Appendix A.
- i) Each application shall be signed by the applicant or a person duly authorized to act on behalf of the applicant. 3007

(Source: Amended at 21 Ill. Reg. 3007, effective



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Section 332.60 Technical Information

The application shall contain technical information demonstrating that the technical criteria of this Part will be met. Specifically, the application shall contain:

- a) A description of the characteristics of the proposed licensed site as determined by selection and characterization activities. The description shall include, but need not be limited to, the following:
  - 1) Topography, geology, geochemistry, geotechnology, seismology, hydrology, climatology, meteorology, radioactivity, toxicology and ecology;
  - 2) History, archaeology and demography;
  - 3) Local economy and land usage;
  - 4) Known natural and mineral resources;
  - 5) Proposed and available modes of transportation; and
  - 6) A list of all endangered plant and animal species on the site and within 10 km.
- b) A description of the design features of the source material milling facility and byproduct material surface impoundment and disposal area. The description shall include the following:
  - 1) Effluent and groundwater management;
  - 2) Effluent discharges and monitoring;
  - 3) Licensed site access protection;
  - 4) Occupational exposure control;
  - 5) Licensed site monitoring, closure and maintenance; and
  - 6) Buffer zone adequacy for monitoring and potential mitigative measures.
- c) A description of the design criteria and their relationship to the technical criteria.
- d) A description of the natural events or phenomena, such as winds and rainstorms, tornadoes, earthquakes and extreme temperatures, used for the design and their relationship to the design criteria.
- e) A description of codes and standards which the applicant has applied to the design and which will apply to construction of the source material milling facility, and any byproduct material surface impoundment and disposal area.
- f) A description of the construction and operation of any byproduct material surface impoundment and disposal area. The description shall include as a minimum:
  - 1) Method of construction;
  - 2) Method for replacement of byproduct material within a surface impoundment or disposal area;
  - 3) Procedures for and areas of waste segregation;
  - 4) Types of access control barriers;
  - 5) Engineering quality control program;
  - 6) Construction quality assurance program;
  - 7) Methods and areas of waste storage;
  - 8) Onsite traffic and drainage systems; and

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- 9) Methods to control surface water and groundwater and precipitation access to the byproduct material.
- g) A description of methods to be employed in the handling and disposal of the byproduct material including dewatering and neutralizing such materials that, because of physical or chemical properties, might affect meeting the technical criteria of this Part.
- h) A description of the licensed site closure plan, including those design features which are intended to facilitate closure and to eliminate the need for active maintenance.
- i) A description of the kind, amount, source, classification and specifications of the radioactive material proposed to be received, possessed, processed, and disposed of at the source material milling facility, any byproduct material surface impoundment and any disposal area.
- j) A description of the quality assurance program for the determination of natural characteristics of the licensed site and for the maintenance of quality control during the design, construction, operation, reclosure, decontamination, stabilization and closure of the site. A description of the quality control procedures including criteria and standards shall be incorporated in this program.
- k) A description of the radiation safety program for controlling and monitoring radioactive effluents to ensure compliance with the technical criteria in Section 332.170 of this Part and 32 Ill. Adm. Code 340; occupational radiation exposure to ensure compliance with the requirements of 32 Ill. Adm. Code 340; and to control contamination of personnel, vehicles, equipment, buildings and the site. Both routine operations and accidents shall be addressed. The program description shall include procedures, instrumentation, facilities and equipment.
- l) A description of the environmental monitoring program designed to provide data to evaluate potential health and environmental impacts and the plan for taking corrective measures if migration is indicated. Components of an environmental monitoring program generally include:
  - 1) the sampling of air, for particulate and gaseous emissions;
  - 2) the sampling of surface water and groundwater;
  - 3) the sampling of soil and sediment;
  - 4) the sampling of vegetation and animals;
  - 5) the sampling of total radon and its daughters;
  - 6) the use of fixed radiation detectors with both passive integrating devices and survey instruments; and
  - 7) other environmental analysis that might be indicated as a result of site specific conditions.
- m) A description of the proposed methods of decontamination, reclosure, stabilization and postclosure activities within the licensed site.
- n) A description of each emission source and emission control device incorporated into the source material milling operations. The description shall also include the efficiency, calibration procedures and maintenance schedules for emission control devices.

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- o) A description of the licensee's procedure for monitoring all pathways of exposure (i.e., ingestion, inhalation, external exposures) to workers and the public. The frequency of monitoring for each pathway shall be site specific and designed to demonstrate compliance with the criteria of Section 332.170 of this Part and 32 Ill. Adm. Code 340.
- p) A description of the administrative procedures that the applicant will apply to control activities at the source material milling facility and any byproduct material surface impoundment, and disposal area including, but not limited to, organization and lines of authority, management audit programs and internal inspection programs.
- q) An estimate of the environmental effects of accidents on each operation.
- r) A description of regional and site specific characteristics which have seasonal or cyclical variations, including to include the range of variations and in addition to the average values. The site specific preparations monitoring data must be based on data collected during the period of the monitoring season. The licensee shall be required to collect data prior to the alteration of the environment by changes in topography, drainage or construction of the milling facility and waste disposal system.
- s) A report describing methodology, calibration procedures, quality control and data analysis for each type of measurement shall be included in the application.

(Source: Amended at 21 Ill. Reg. 3209, effective \_\_\_\_\_)

## Section 332.70 Technical Analyses

The technical information shall also include the following analyses needed to demonstrate that the technical criteria of this Part will be met:

- a) Analysis of radiological impacts, including all pathways of exposure (i.e., ingestion, inhalation, external exposures) of an individual continuously present at the control boundary, the public and those individuals working at the licensed site, in accordance with Section 332.170 of this Part and 32 Ill. Adm. Code 340.210-340.410. The licensee shall include the following aspects of the proposed project in the application: the construction, operation, decommissioning, and stabilization and postclosure periods under both normal and low-frequency severe event conditions (e.g., floods, severe storms, earthquakes, tornadoes, extreme temperatures). In addition, the analysis shall include a description of assumptions and procedures used for determination of the source terms, concentrations, and dose-conversion factors. The impact analysis shall also include the following:

- 1) A determination of the radiological impacts to an individual continuously present at the control boundary;
- 2) A determination of the health impacts to the public, based on

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- existing population and projected population, for 100 years, within a distance of 80 km;
- 3) A determination of the health impacts to the public, based on existing population and projected population, for 100 years, within a distance of 5 km;
- 4) Radiological analyses for a period up to 100 years after the anticipated closure;
- 5) The radiological impacts on groundwater, estimated for a period of 1,000 years after the beginning of the operation; and
- 6) Identification and differentiation of the roles performed by the natural site characteristics and design features in isolating the byproduct material from environment. The analysis shall include assessments that show the exposures to humans from the release of radioactivity will not exceed the limits set forth in Section 332.170 of this Part and 32 Ill. Adm. Code 340.

- b) Analyses of the protection of individuals during operations shall include assessments for expected exposures due to routine operations and accidents involving operation, storage, transfer, transport and disposal of source material, byproduct material and byproduct waste as defined in this Part. The analyses shall include assessments that show that exposures will be controlled to meet the requirements of 32 Ill. Adm. Code 340.210-340.410 for individuals in the restricted area, and the requirements of Section 332.170 of this Part and 32 Ill. Adm. Code 340.310 and 340.320 for individuals outside the control boundary.

- c) Evaluation of the long-term stability of the byproduct material disposal site and the need for active maintenance after closure of the source material milling facility and any byproduct material surface impoundment or disposal area shall be based upon analyses of active natural processes processes such as erosion, mass wasting, slope failure, settlement of byproduct material and backfill, infiltration through covers over disposal areas and adjacent soils, and surface drainage of the disposal site. The analyses shall include assessments that show that, after closure, the disposal site will not require active maintenance.

- d) Analysis of the protection of the disposal site from inadvertent access shall include demonstration that the site closure requirements of Section 332.180 of this Part will be met. 3309

(Source: Amended at 21 Ill. Reg. 3910, effective \_\_\_\_\_)

## Section 332.100 Evaluation of License Application and Issuance of a License

- a) Environmental Analysis
- 1) Each application for a license or license amendment must be reviewed and the license or amendment must be issued by the Department before commencement of any major construction activity. As part of its review of such applications, the

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Department shall prepare a written analysis of the impact of the license including any activities conducted pursuant thereto. The analysis shall include the following:

- A) An assessment of the radiological and nonradiological impacts to the public health from the activities to be conducted pursuant to the license or amendment;
  - B) An assessment of any impact on any waterway and groundwater resulting from the activities conducted pursuant to the license or amendment;
  - C) Consideration of alternatives, including alternative sites and engineering methods, to the activities to be conducted pursuant to the license or amendment; and
  - D) Consideration of the long-term impacts including decontamination, decontamination and reclamation impacts, associated with activities to be conducted pursuant to the license or amendment prior to issuance of the license or amendment, and
  - E) Consideration of grounds for denial of the license or amendment, and
- 3) The environmental analysis prepared in accordance with subsection (a)(1) of this Section shall be available to the public before the commencement of hearings regarding the merits of the application.

## b) Public participation

- 1) Written comments
  - A) Upon completing preparation of the analysis pursuant to subsection (a) of this Section, the Department shall publish a notice of the availability of the environmental analysis in the official State newspaper and in a newspaper published in the county or counties where the facility which is the subject of licensing action is to be located. This notice shall specify how a copy of the environmental analysis can be obtained as well as the deadline and address for submitting written comments on the license application.
  - B) The Department shall accept written comments on the license application for at least 45 days following the publication of the notice described in subsection (b)(1)(A) of this Section.
- 2) Hearings
  - A) At least 30 days prior to the issuance or renewal of a license pursuant to this Part, the Department shall publish a Notice of Opportunity to request a hearing in the official State newspaper and in a newspaper published in the county or counties where the facility that is the subject of the license application is located. This notice shall contain:
    - i) a statement identifying the location of the facility;
    - ii) a statement of the availability of the environmental analysis;

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- iii) a statement of the right to request a hearing;
  - iv) the date by which a request for a hearing is to be submitted to the Department, such date shall be no less than 20 days from the date of the publication of the notice; and
  - v) a statement of the actions that will be taken by the Department in the event that a hearing is not requested.
- B) Any person who would be adversely affected by the issuance of the license may request a hearing. The request must be in writing and must contain a brief statement of the basis upon which the issuance of the license is being challenged. If the request is not submitted by the date specified in accordance with subsection (b)(2)(A) of this Section, or if the request is submitted but later withdrawn, the Department shall issue the license in accordance with subsection (C) of this Section.
- C) The hearing is requested in accordance with subsection (b)(2)(B) of this Section; the parties to the hearing shall be the Department and the Respondent. The provisions of 32 Ill. Adm. Code 200.20, 200.40, 200.50, 200.80 through 200.140 and 200.160 through 200.230 shall be applicable to the hearing.
- c) Upon a determination that an application meets all criteria of this Part, the Department shall issue a specific license authorizing the construction of the source material milling facility and any byproduct material surface impoundment and disposal area. Upon completion of the construction in accordance with the license specifications, the Department shall authorize operations at the licensed site after verification of compliance with the license specifications.
- d) The Department may incorporate in any license at the time of issuance, or thereafter by appropriate rule or order, additional requirements and conditions in order to:
- 1) Ensure compliance with the requirements of this Part;
  - 2) Reduce potential hazard to public safety during operation;
  - 3) Protect the environment; or
  - 4) Prevent loss or theft of materials subject to this Part.
- e) The Department shall maintain appropriate records, perform confirmatory monitoring and inspect activities under the license as necessary to demonstrate compliance with the requirements of this Part.
- f) Throughout the construction and operating phases of the source material milling facility, a monitoring program shall be conducted by the licensee in order to:
- 1) Demonstrate compliance with the standards of this Part and 32 Ill. Adm. Code 310, 340, and 400;
  - 2) Evaluate the performance of control systems and procedures;
  - 3) Evaluate environmental impacts of operation; and

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- g) Detect potential long-term adverse effects.
- h) The source material mining facility shall be designed and operated so that effluents and emissions and the resultant dose from such do not exceed ~~one-tenth~~ one-tenth the exposure-and-concentration limits specified in 32 Ill. Adm. Code 340.310 and 340.320 340-Appendix-A and in Section 332.170 of this Part. The licensee shall limit emissions and exposures by using emission control devices. If the licensee cannot meet the requirements using emission control devices, then institutional controls, such as extended licensed site boundaries and buffer zones, may be used to ensure that limits of dose to members of the ~~public~~ public exposure-and-concentrations-at-the-boundary-of-the restricted-area will be met. The licensee shall submit to the Department proposed operation procedures and shutdown procedures as evidence that the requirements specified in 32 Ill. Adm. Code 340 will be met.

(Source: Amended at 21 Ill. Reg. 307, effective \_\_\_\_\_)

## Section 332.110 General Conditions of Licenses

- a) The licensee shall be subject to the provisions of the Act and to all rules, regulations, and orders of the Department. The terms and conditions of the license are subject to amendment, revision, or modification, by reason of amendments to, or by reason of regulations and orders issued in accordance with, the terms of the Act.
- b) Each person licensed by the Department pursuant to the regulations of this Part shall confine possession and use of materials to the locations and purposes authorized in the license.
- c) The licensee shall not process any ore or place any byproduct material in any surface impoundment or disposal area until the Department has inspected the surface impoundment or disposal area it and, based on the results of the inspection, has determined that the surface impoundment or disposal area it conforms to the description, design and construction described in the application for the license.
- d) The licensee issued pursuant to under this Part, or any right thereunder, shall be transferred or assigned in any manner approved by the Department. The licensee shall not be transferred or assigned through transfer of control of the license to any person unless the Department finds, after securing information, that the transfer is in accordance with the provisions of the Act and gives its consent in writing in the form of a license amendment.
- e) The authority to receive and process ores and to place byproduct material within any surface impoundment and disposal area expires on the date stated in the license. Any expiration date on a license applies only to the receipt and processing of ores and the placement of byproduct material. Failure to renew the license shall not relieve the licensee of responsibility for implementing reclamation,

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- decontamination, stabilization and closure, postclosure observation and maintenance and transfer of the license to the ultimate governmental owner.
- f) The licensee will terminate only on the full implementation of the final closure plan as approved by the Department, including postclosure observation and maintenance, and meeting the requirements of Section 332.140 of this Part.
- g) Notification of Bankruptcy

- 1) The licensee shall notify the Department, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any Chapter of 11 U.S.C. 101 et seq. (Bankruptcy) of the United States Code by or against:

- A) The licensee;
- B) An entity (as that term is defined in 11 U.S.C. 101(13)(4)) controlling the licensee or listing the licensee or licensee as property of the estate; or
- C) A state (as that term is defined in 11 U.S.C. 101(2)) of the licensee.

- 2) This notification shall ~~must~~ indicate:

- A) The bankruptcy court in which the petition for bankruptcy was filed; and
- B) The date of the filing of the petition.
- h) The licensee shall submit written statements, as requested by the Department at any time before termination of the license, to enable the Department to determine whether the license should be modified, suspended or revoked.

(Source: Amended at 21 Ill. Reg. 309, effective \_\_\_\_\_)

## Section 332.140 Postclosure Observation and Maintenance

- a) The licensee shall observe, monitor and maintain the licensed site until closure is complete and the license is terminated under the authorization of the Department in accordance with Section 332.150 of this Part. The licensee shall be responsible for disposal site maintenance for 35 years after completion of closure. A long-term postclosure observation and maintenance program will be required if the Department determines that the licensee has not designed and closed the disposal site in accordance with the closure plan specified in the license.
- b) During the postclosure period, the licensee shall conduct four disposal site inspections each year, once each season. Additional inspections shall be performed after each earthquake, which at the disposal site exceeds a level 6 on the Modified Mercalli Index, or flood or abnormal change in climate, such as precipitation in excess of 10 times the seasonal average level. The results of the inspections, the monitoring data and the evaluation of the monitoring

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data shall be reported to the Department within 60 days after each inspection. The Department shall require more frequent disposal site inspections, if necessary, to establish compliance with the requirements of Section 332.100 of this Part, or if there has been unauthorized use of the disposal site.

(Source: Amended at 21 Ill. Reg. 3307, effective 1-1-71)

## Section 332.150 Termination of Source Material Milling Facility License

a) Following closure and the period of postclosure observation and maintenance, the licensee may apply for termination of the license. The license shall be terminated when the Department finds:

- 1) that the closure of the licensee's site has been made in conformance with the licensee's closure plan, as amended and approved by the Department;
- 2) that the licensee has established that the technical criteria of this Part have been met;
- 3) that any long-term care funds and records are transferred to the Federal or State agency that will assume institutional control of the disposal site;
- 4) that the Federal or State agency that will assume responsibility for long-term care, observation and maintenance of the disposal site is prepared to assume such responsibilities;
- 5) that permanent monuments or markers warning against intrusion have been installed;
- 6) that the U.S. Nuclear Regulatory Commission has made a determination of compliance with the decontamination, decommissioning, reclamation and stabilization standards; and
- 7) that title to the byproduct material and to the disposal site has been transferred to the United States of America or the State.

b) In addition to satisfying requirements in subsection (a) of this section above, the licensee site, other than the buildings and grounds of the licensee, shall be decontaminated to the following limits prior to termination of the license:

- 1) Concentrations of radionuclides in soil above background concentrations for total radium, averaged over areas of 100 square meters, shall not exceed:
  - A) 5 picocuries per gram of dry soil, averaged over the first 15 centimeters below the surface; and
  - B) 15 picocuries per gram of dry soil, averaged over layers of 15 centimeters thickness more than 15 centimeters below the surface.
- 2) The level of gamma radiation measured at a distance of 100 centimeters from the surface shall not exceed background.
- 3) Soil contamination levels with non-radioactive hazardous substances shall not exceed be-~~less~~-than the levels

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specified as contamination limits in other applicable State or Federal regulations.

(Source: Amended at 21 Ill. Reg. 3307, effective 1-1-71)

## Section 332.170 Protection of the General Population from Radiation

- a) At all times, concentrations of radioactive material, excluding radon, thoron and their progeny, which may be released to the general environment in groundwater, surface water, air, soil or other means:
  - 1) Shall not result in an annual effective dose equivalent in excess of 25 millirem (0.25 mSv) to the whole body of any member of the public; and
  - 2) Shall not result in an annual dose equivalent in excess of 75 millirem (0.75 mSv) to the thyroid or 25 millirem (0.25 mSv) to any other organ of any member of the public.
- b) Releases of radionuclides in effluents to the general environment shall be maintained as low as is reasonably achievable.
- c) During the operating life and facility decommissioning, the dose to any member of the public shall not exceed the limits specified in 32 Ill. Adm. Code 330.310 combined concentration of radon and thoron at the licensee's site, and shall not exceed the limits specified in 32 Ill. Adm. Code 330.310 combined concentration of radon and thoron at the licensee's site, averaged annually, shall not exceed three picocuries per liter above the background concentration at the licensee's site.

d) The disposal area shall be designed so that after reclamation and stabilization, the annual total radon release rate through the cover from the byproduct material shall not exceed two picocuries per square meter per second. Furthermore, the direct gamma exposure rate from the byproduct material shall be reduced to background levels normal for areas in the vicinity.

(Source: Amended at 21 Ill. Reg. 3307, effective 1-1-71)

## Section 332.240 Technical Criteria for Byproduct Material Disposal Sites - Control of Radiation Hazards

- a) Licensees shall place an earthen cover over byproduct material at the end of source material milling operations and shall close the disposal site in accordance with a design which assures compliance with the requirements specified in Section 332.170(d) of this Part. The licensee shall provide for the disposal of the byproduct material in accordance with Section 332.150(b) of this Part. The byproduct material shall be incorporated into the disposal area. Monitoring for total radon after installation of an appropriately designed cover is not required. Total radon emissions from cover material shall be estimated as part of developing a closure plan. The standard for total radon release rate specified in Section

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332.170(d) of this Part 332.170et, however, applies only to emissions from byproduct material. In computing required byproduct material area cover thickness, average moisture in the cover shall be determined from similar soils and under similar circumstances. The effects of any synthetic layer shall not be taken into account in determining the calculated total radon release rate. If material other than soil is proposed as cover material, it shall be demonstrated that such material will not crack or degrade by differential settlement, weathering or other mechanism, over long-term time intervals. Near surface cover material within the top three meters shall not include byproduct material or rock that contains elevated levels of radium; soils used for near surface cover shall be essentially the same, as far as radioactivity is concerned, as that of surrounding surface soils.

- b) The licensee shall ensure that disposal sites are closed in a manner that assures no active maintenance will be required. The licensee shall address the nonradiological hazards associated with the waste in planning and implementing closure. To the extent necessary to protect the public, the licensee shall ensure that the waste shall control or eliminate postclosure escape of contaminants, hazardous constituents, leachate, contaminated rainwater, or waste decomposition products to groundwater, surface water or to the atmosphere.

(Source: Amended at 21 Ill. Reg. 3337, effective \_\_\_\_\_)

## Section 332.250 Technical Criteria - Source Material Milling Operations

- a) Liquids resulting from any of the mill processes shall not be released into surface streams. In addition, contaminated solutions, other than liquids resulting from any of the mill processes, shall not be released into the environment if the solutions have radionuclide concentrations in excess of those specified in 32 Ill. Adm. Code 310.320(b) and (c) 32-III-Adm-Code-346-Appendix-A--fsee--Table--117 Section--27.
- b) Byproduct material shall be chemically and physically treated to immobilize or remove the contaminants.
- c) Amended: The remediation program shall be established to assure that specifications of the torturing program detailed in the license are met. If adverse groundwater impacts or conditions conducive to adverse groundwater impacts occur, action shall be taken to alleviate the impacts or conditions and restore groundwater quality to levels as specified in accordance with Section 332.230 of this Part consistent with those before operations began.
- d) Source material milling operations shall be conducted so that all airborne effluent releases are reduced to levels as low as is reasonably achievable. Emissions controls shall be used.
- e) To control fugitive dust from tailings, all surfaces not covered by standing liquids shall be wetted or chemically stabilized. For licenses initially granted after January 1, 1990 the effective date of this Part, management of tailings shall incorporate phased-in surface stabilization and reclamation. To control dusting from diffuse sources, operators shall develop written operating procedures specifying the methods of control which will be used.
- f) Byproduct material shall be managed so as to conform to the applicable provisions of 40 CFR 440, Ore Mining and Dressing Point Source Category, Subpart E, Emissions Limitations and New Source Performance Standard, Subpart C, Uranium, Radium, and Thorium, and Subcategory, amendments or editions, effective July 1, 1995 January 1, 1999, exclusive of amendments or editions.
- g) Licensees and applicants shall satisfy the requirements of 40 CFR 61, in effect on July 1, 1995 1999, exclusive of subsequent amendments or editions.
- h) Inspection of the byproduct material impoundments and disposal areas:
- 1) The licensee shall conduct daily inspections of any surface impoundment and disposal site and document the results of the

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Institutional controls, such as extending the licensed site boundary and exclusion area, may be employed to ensure that offsite dose and exposure limits are met, but only after all practicable process and engineering measures have been taken to control emissions at the source. Notwithstanding the existence of individual dose standards, strict control of emissions is necessary to assure that population exposures are reduced to the maximum extent reasonably achievable and to avoid site contamination. During operations and prior to closure, radiation doses from radon emissions from surface impoundments and disposal areas containing byproduct material shall be kept as low as is reasonably achievable. Checks shall be made and logged hourly of all parameters which determine the efficiency of product stack emission control equipment operation. It shall be determined whether or not conditions are within a range prescribed to ensure that the equipment is operating consistently near peak efficiency. Corrective action must be taken when performance is outside of prescribed ranges. Effluent control devices must be operative at all times during drying and packaging operations and whenever air is exhausting from the product stack. Drying and packaging operations shall terminate when the licensee determines that the equipment is no longer capable of operating within the range prescribed for peak efficiency. Actions shall be taken to restore parameters to the prescribed range. When this cannot be done without shutdown and repairs, drying and packaging operations shall cease as soon as practicable. Operations shall not be restarted after cessation due to abnormal performance until needed corrective actions have been identified and implemented. All such cessations, corrective actions and restarts shall be reported to the Department, in writing, within ten--107 days of the subsequent restart.

- e) To control fugitive dust from tailings, all surfaces not covered by standing liquids shall be wetted or chemically stabilized. For licenses initially granted after January 1, 1990 the effective date of this Part, management of tailings shall incorporate phased-in surface stabilization and reclamation. To control dusting from diffuse sources, operators shall develop written operating procedures specifying the methods of control which will be used.
- f) Byproduct material shall be managed so as to conform to the applicable provisions of 40 CFR 440, Ore Mining and Dressing Point Source Category, Subpart E, Emissions Limitations and New Source Performance Standard, Subpart C, Uranium, Radium, and Thorium, and Subcategory, amendments or editions, effective July 1, 1995 January 1, 1999, exclusive of amendments or editions.
- g) Licensees and applicants shall satisfy the requirements of 40 CFR 61, in effect on July 1, 1995 1999, exclusive of subsequent amendments or editions.
- h) Inspection of the byproduct material impoundments and disposal areas:
- 1) The licensee shall conduct daily inspections of any surface impoundment and disposal site and document the results of the



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inspections. Records of the inspections shall be maintained for 5 years in a format allowing for easy access and for review by the Department for 5 years.

- 2) The licensee shall notify the Department within 2 hours by telephone, and then within 48 hours by written report, of any failure of a byproduct material surface impoundment or disposal area which results in a release of byproduct material into unrestricted areas. The licensee shall notify the Department in writing, within 5 working days, of any condition which was not anticipated in the design of the byproduct material surface impoundment or disposal area and, if not corrected, could cause failure of embankments or other structures containing the byproduct material and the release of byproduct material into unrestricted areas.
- 3) In cases of failure of the byproduct material impoundment, the report shall be prepared and submitted to the governmental agency to which the title of the facility will be transferred.

(Source: Amended at 21 Ill. Reg. 309.9, effective \_\_\_\_\_)

## Section 332.280 Land Ownership

- a) These requirements relating to ownership of byproduct material, mineral rights and disposal sites apply to all licenses terminated, issued or renewed after January 1, 1990 the effective date of this Part.
- b) Unless exempted by NRC, title to land (including any affected interests therein) which is used for the disposal of byproduct material, or is essential to ensure the long-term stability of the disposal area and the title to byproduct material shall be transferred to the United States of America or the State of Illinois, at the State's option, prior to the termination of the license. The licensee shall attempt to obtain ownership of the severable mineral rights and surface interests in the land, and the mineral rights cannot be obtained, provide notification in local public records of the fact that the land is being used for the disposal of radioactive material and is subject to an NRC license prohibiting the disruption and disturbance of the radioactive material.
- c) The use of the surface or subsurface estates, or both, of the lands transferred to the State or to the United States of America is prohibited unless the NRC determines by order that such use will not endanger the public health, safety, welfare or environment. The person who transferred such lands to the State or to the United States of America shall have the right of first refusal with respect to such use of such lands.
- d) Byproduct material and land transferred to the United States of America or the State in accordance with this section shall be

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transferred without cost to the United States of America or the State other than administrative and legal costs incurred in carrying out such transfer.

- e) The provisions of this Section respecting transfer of title and custody to land and byproduct material do not apply in the case of lands held in trust by the United States of America for any Indian tribe or lands owned by such Indian tribe subject to a restriction against alienation imposed by the United States of America. Where such lands are used for the disposal of byproduct material, the licensee shall enter into arrangements with the NRC as may be appropriate to assure the long-term care of such lands by the United States of America.
- f) Prior to termination of the license, the licensee shall provide evidence that it will comply with ownership requirements of this Section.

(Source: Amended at 21 Ill. Reg. 309.9, effective \_\_\_\_\_)

## Section 332.290 Maintenance of Records, Reports, and Transfers

- a) Each licensee shall maintain any records and make any reports in connection with the license activities as may be required by the conditions of the license or by the rules, regulations and orders of the Department.
- b) Records which are required to be maintained by regulation or by license conditions shall be maintained in a format allowing for easy access and review by the Department, for a time period specified in the applicable regulation or license condition. If a record retention period is not otherwise specified, these records shall be maintained and transferred to the officials specified in subsection (d) of this Section below as a condition of license termination unless the Department otherwise authorizes their disposition.
- c) Records which shall be maintained pursuant to this Part may be the original, or a reproducible copy or microfilm if this reproduced copy or microfilm is capable of producing copy that is clear and legible at the time of the request for reproduction.
- d) Copies of records of the licensee shall be transferred upon license termination to the disposal site shall be transferred upon license termination to the Department, the agency responsible for long-term care, the U.S. Nuclear Regulatory Commission, the chief executive of the nearest municipality, the chief executive of the county in which the disposal site is located, the county zoning board or land development and planning agency and the Governor.
- e) Each licensee shall file a copy of its financial report or a certified financial statement annually with the Department in order to update the information base for determining the continued financial qualifications of the licensee.

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- f) Each licensee shall submit status reports to the Department. The reports shall be submitted within 60 days after January 1 and July 1 of each year and shall cover the previous 6 months of operation. The reports shall include:
- 1) Specification of the quantity of each of the radionuclides released to unrestricted areas in liquid and gaseous effluents;
  - 2) The results of the environmental monitoring program;
  - 3) The data shall be reported in a manner that will permit the Department to confirm the potential annual radiation doses to the public;
  - 4) A summary of licensee survey and maintenance activities;
  - 5) A summary of activities and quantities of licensed material processed, stored, transferred or disposed of; and
  - 6) Any instances in which observed site, facility, process, or equipment characteristics were significantly different from those described in the application for a license; and
  - 7) If the quantities of radionuclides released are more than 25 percent 25% greater than those anticipated in the license application, or if unanticipated maintenance is performed a discussion of the cause of the release or the reason for the maintenance.

(Source: Amended at 21 Ill. Reg. 3897 - effective March 13, 1997)

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- 1) Heading of the Part: Child Support Enforcement
- 2) Code Citation: 89 Ill. Adm. Code 160
- 3) Section Numbers: Adopted Action:  
160.30 Amendment  
160.35 Amendment  
160.60 Amendment  
160.61 Amendment  
160.62 New Section
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Amendments: March 13, 1997
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these Amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: March 13, 1997
- 9) Notice of Proposal Published in Illinois Register: October 25, 1996 (20 Ill. Reg. 13894)
- 10) Has JCAR issued a Statement of Objections to these Adopted Amendments? No
- 11) Differences between Proposal and final version: The following changes were made in the text of the proposed amendments:
  1. In Section 160.35(b)(2), "See" was changed to the lower case.
  2. In Section 160.35(g), "of" was changed to "after" and "Section 160.35(f)" was changed to "subsection (f) of this Section".
  3. In Sections 160.60(a)(3)(A) and (E), the ILCS was corrected.
  4. In Section 160.60(c)(11), "below" was stricken twice and "of this Section" was added twice.
  5. In Section 160.60(d)(3)(B)(i), the final comma was stricken and an underlined semicolon was added.
  6. In Section 160.61(b)(8)(B)(viii), the final "him" was changed to "the presumed father".
  7. In Section 160.61(b)(10), "noticed" was changed to "given notice".

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8. In Section 160.62(a), the comma after "Section 160.61" was deleted.
9. In Section 160.62(c), the comma after "Section" was deleted and "verifiable" was added before "information".
10. In Section 160.62(c)(2)(i), the final period was deleted and an underlined semicolon was added.
11. New Section 160.62(c)(2)(j) was added as follows:
 

j) other verifiable information concerning the alleged father, such as information about military service, involvement with the criminal justice or penal systems, receipt of public assistance or unemployment insurance benefits or the existence of professional, occupational or recreational licenses.
12. In Section 160.62(d), "Parts" was deleted.
13. In Section 160.62(f)(3), the semicolon was deleted and replaced by an underlined comma.
14. In Section 160.62(g)(2)(A), "mentally retarded" was stricken and "developmentally disabled" was added.
15. In Section 160.62(g)(2)(C), "taken" was added before "at".

No other changes have been made in the text of the proposed amendments.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

- 13) Will these amendments replace Emergency Amendments currently in effect? NO

- 14) Are there any Amendments pending on this Part? Yes

Section	Proposed Action	Illinois Register Citation
160.10	Amendment	October 25, 1996 (20 Ill. Reg. 12567)
160.71	New Section	October 25, 1996 (20 Ill. Reg. 12567)

- 15) Summary and Purpose of Amendments: Pursuant to provisions of Public Act 89-6 and Public Act 89-61, these amendments provide for the voluntary acknowledgment of paternity. Public Act 89-61 allows the Department to make changes in its Child Support Enforcement rules to increase the establishment of paternity and expedite child support collection efforts. The voluntary acknowledgment of paternity process will allow the mother

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and the father of a child to establish paternity without having to go to court. As a result of this rulemaking, the mother and the father only need to sign an acknowledgment of paternity to establish the paternity of a child.

The Department of Public Health requires an acknowledgment of paternity, signed by the mother and father, to add the father's name to the child's birth certificate. Public Act 89-61 adds a quick and easy method for the mother and father of a non-marital child to establish paternity and be listed on the child's birth certificate without the need to go to court.

Under the new law, when the father's name appears on the birth certificate of a non-marital child born on or after August 9, 1996, paternity is established. The new law also allows the birth certificate of a non-marital child born before August 9, 1996, to be amended to list the name of the father. When the birth certificate is amended to list the name of the father, paternity is established.

## Paternity Establishment Demonstration

As part of the Paternity Establishment Demonstration Project of the Governor's Fast Track Welfare Reform, the Department requested a Federal waiver to strengthen the requirements for cooperation in paternity establishment. The requirements are as follows:

- the Department is to give the client notice about the new cooperation requirements and penalties for failure to cooperate; and
- the client is required to identify and give information about the non-custodial parent.

In addition, these amendments establish that a progressive sanction for non-cooperation, based on a 6-month time period beginning with the client's notification of cooperation requirements will be used. A non-custodial parent who fails to cooperate, without good cause, at any time during the first six months following the notification required by these amendments, will be excluded from the assistance grant.

Non-cooperation, without good cause, that continues beyond the six-month period after the first notification or an instance of non-cooperation that occurs after the six-month period following a period during which the custodial parent was deemed to be cooperating (such as, failure to appear for a court or administrative proceeding, or failure to submit to or bring the non-marital child in for court or administratively-ordered genetic testing) will result in sanctions by the Department as follows:

1. If the custodial parent was sanctioned for failure to furnish identifying information concerning the alleged father or for any other

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instance of non-cooperation, without good cause, at any time during the first six months following the required notification and non-cooperation continues beyond the end of the six-month period, then:

- a. beginning with the seventh month following notification, in addition to continued exclusion of the custodial parent from the assistance grant, the non-marital child's portion of the family's cash assistance benefits will be terminated; and
  - b. the sanction will be removed in the month following the date on which the custodial parent cooperates.
2. If an instance of non-cooperation, without good cause, occurs after the end of the first six months following the required notification and the custodial parent had not previously been sanctioned for non-cooperation, then:

- a. the custodial parent will be excluded from the assistance grant; and
  - b. if the custodial parent then cooperates within the sanction month, the sanction will be removed for the following month; however
  - c. if the non-cooperation continues through the sanction month, the non-marital child's portion of the family's cash assistance benefits will be terminated beginning the following month, and the sanction will not be removed until the month following the date on which the custodial parent cooperates.
3. If an instance of non-cooperation, without good cause, occurs after the end of the first six months of the requirement to cooperate, following a period during which the custodial parent was deemed to be cooperating, but the custodial parent had, at any earlier time following the required notification been sanctioned for non-cooperation; then:
- a. in addition to excluding the custodial parent from the assistance grant, the non-marital child's portion of the family's cash assistance benefits will be terminated; and
  - b. the sanctions will not be removed until the month following the date on which paternity is established, unless it is determined by the Department that:
    - the custodial parent has provided the identifying information related to the child's alleged father, as specified in these amendments and fully cooperated; and

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- the failure to establish paternity is attributable to the Department for reasons such as trial hearing continuances, or failure to arrange genetic testing or to make findings after a paternity administrative hearing, or to serve the alleged father with process or notice as provided by law.

This rulemaking establishes that the Department will conduct a demonstration project for administrative paternity and support establishment and continued eligibility for custodial parents of a non-marital child for whom paternity has not been established. The Department will administratively establish paternity in uncontested matters in all IV-D cases. In cases involving recipients of cash assistance, the Department will administratively establish paternity in contested cases. When the Department administratively establishes paternity, it will also enter an administrative support order.

Unless the Department determines that there is good cause for refusing to cooperate, a custodial parent of a non-marital child in the Paternity Establishment and Continued Eligibility Demonstration Project will cooperate in the Department's efforts to establish paternity of any non-marital child for whom paternity has not been established. These proposed amendments establish the guidelines for determining cooperation with the Paternity Establishment and Continued Eligibility Demonstration Project.

Cooperation

These amendments provide that the client must give information to begin proceedings to establish the paternity of the child. A client who is the custodial parent and who does not have good cause, must identify and give information about the non-custodial parent. If more than one person may be a non-custodial parent, the client must give information about each person. The information must include at least the first and last name and the social security number of the non-custodial parent. If the SSN is not known, at least two of the following items of information about the non-custodial parent will be accepted:

- date of birth;
- address;
- telephone number;
- name and address of employer;
- name of parent; and

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- the manufacturer's model and license number of any motor vehicle owned by the non-custodial parent.

The failure of a custodial parent to provide sufficient identifying information about the alleged father will not be determined to be non-cooperation if:

1. The custodial parent has had an assistance grant that includes the non-marital child for at least 10 years prior to the notification provided to the custodial parent and the custodial parent furnishes to the Department a written statement, under penalty of perjury, indicating that she does not know the identifying information about the alleged father because she has had no contact with him since the non-marital child was included in the assistance grant; or
2. The custodial parent does not know the required information because:
  - the custodial parent is mentally retarded, as documented by a copy of an intelligence quotient test result, or the written statement of a qualified medical practitioner; or
  - the custodial parent is mentally ill, or was mentally ill at the time the non-marital child was conceived, as documented by the written statement of a qualified medical practitioner stating that the nature of the mental illness prevented the person from knowing the required information; or
  - the custodial parent has a history of drug or alcohol abuse, and provides documentation of treatment for such abuse at the time the non-marital child was conceived; and
3. The custodial parent provides whatever identifying information she does possess about the alleged father.

Fair Hearings

All persons subject to the demonstration sanction have the same appeal rights, including fair hearings and access to the judicial process, as any other person notified of adverse action.

- 16) Information and questions regarding these Adopted Amendments shall be directed to:

Name: Judy Umunna  
Address: Bureau of Rules and Regulations  
Illinois Department of Public Aid  
100 South Grand Avenue East, Third Floor  
Springfield, Illinois 62762

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Telephone: (217) 524-0081

The full text of the Adopted Amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES  
CHAPTER 1: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER 1: COLLECTIONSPART 160  
CHILD SUPPORT ENFORCEMENT  
SUBPART A: GENERAL PROVISIONS

Section  
160.10 Incorporation By Reference  
160.11 Definitions  
160.12 Child Support Enforcement Program  
160.13 Administrative Accountability Process  
160.14 Application Processing Fee for IV-D Non-AFDC Cases  
160.20 Assignment of Rights to Support  
160.25 Recoupment

## SUBPART B: COOPERATION WITH CHILD SUPPORT ENFORCEMENT

Section  
160.30 Cooperation With Support Enforcement Program  
160.35 Good Cause For Failure to Cooperate With Support Enforcement  
160.40 Proof of Good Cause For Failure to Cooperate With Support Enforcement  
160.45 Suspension of Child Support Enforcement Upon Finding of Good Cause

SUBPART C: ESTABLISHMENT AND MODIFICATION OF  
CHILD SUPPORT ORDERS

Section  
160.60 Establishment of Support Obligations  
160.61 Uncontested and Contested Administrative Paternity and Support  
160.62 Conciliation With Paternity Establishment and Continued Eligibility  
160.63 Modification of Support Obligations  
160.65 Modification of Support Obligations

## SUBPART D: ENFORCEMENT OF CHILD SUPPORT ORDERS

Section  
160.70 Enforcement of Support Orders  
160.75 Withholding of Income to Secure Payment of Support  
160.77 Past Due Support Information to State Licensing Agencies  
160.80 Amnesty - 20% Charge  
160.85 Diligent Efforts to Serve Process

## SUBPART E: EARMARKING CHILD SUPPORT PAYMENTS

Section

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## Earmarking Child Support Payments

## SUBPART F: DISTRIBUTION OF SUPPORT COLLECTIONS

Section  
160.90 Earmarking Child Support Payments  
160.100 Distribution of Child Support For AFDC Recipients  
160.110 Distribution of Child Support For Former AFDC Recipients Who Continue To Receive Child Support Enforcement Services  
160.120 Distribution of Child Support Collected While The Client Was An AFDC Recipient, But Not Yet Distributed At The Time The AFDC Case Is Cancelled  
160.130 Distribution of Intercepted Income Tax Refunds and Other State Payments  
160.132 Distribution of Child Support for Non-AFDC Clients  
160.134 Distribution of Child Support for Interstate Cases  
160.136 Distribution of Child Support Collected in IV-E Foster Care Maintenance Cases  
160.138 Distribution of Child Support for Medical Assistance No Grant Cases

## SUBPART G: STATEMENT OF CHILD SUPPORT ACCOUNT ACTIVITY

Section  
160.140 Statement of Child Support Account Activity

## SUBPART H: DEPARTMENT REVIEW OF DISTRIBUTION OF CHILD SUPPORT

Section  
160.150 Department Review of Distribution of Child Support For AFDC Recipients  
160.160 Department Review of Distribution of Child Support For Former AFDC Recipients

AUTHORITY: Implementing and authorized by Art. X and Sections 4-1.7, 12-4.3 and 12-13 of the Illinois Public Aid Code (305 ILCS Art. X, 5/4-1.7, 12-4.3 and 12-13).

SOURCE: Recodified from 89 Ill. Adm. Code 112.278 through 112.286 and 112.88 at 10 Ill. Reg. 11928; amended at 10 Ill. Reg. 19990, effective November 14, 1986; emergency amendment at 11 Ill. Reg. 18000, effective March 5, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9129, effective April 30, 1987; amended at 11 Ill. Reg. 15208, effective August 31, 1987; emergency amendment at 11 Ill. Reg. 15533, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 9065, effective May 16, 1988; amended at 12 Ill. Reg. 18185, effective November 4, 1988; emergency amendment at 12 Ill. Reg. 20835, effective December 2, 1989, for a maximum of 150 days; amended at 12 Ill. Reg. 22278, effective January 1, 1989; amended at 13 Ill. Reg. 4268, effective March 21, 1989; amended at 13 Ill. Reg. 7761, effective May 22, 1989; amended at 13 Ill. Reg. 14385, effective September 1, 1989; amended at 13 Ill. Reg. 16768,



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effective October 12, 1989; amended at 14 Ill. Reg. 18759, effective November 9, 1990; amended at 15 Ill. Reg. 1034, effective January 21, 1991; amended at 16 Ill. Reg. 1852, effective January 20, 1992; amended at 16 Ill. Reg. 9997, effective June 15, 1992; amended at 17 Ill. Reg. 2272, effective February 11, 1993; amended at 17 Ill. Reg. 18844, effective October 18, 1993; amended at 18 Ill. Reg. 697, effective January 10, 1994; amended at 18 Ill. Reg. 12052, effective July 25, 1994; amended at 18 Ill. Reg. 15083, effective September 23, 1994; amended at 18 Ill. Reg. 17886, effective November 30, 1994; amended at 19 Ill. Reg. 1314, effective January 30, 1995; amended at 19 Ill. Reg. 8238, effective June 15, 1995; amended at 19 Ill. Reg. 12615, effective August 31, 1995; emergency amendment at 19 Ill. Reg. 12612, effective October 30, 1995, for a maximum of 20 days; amended at 20 Ill. Reg. 1195, effective January 5, 1996; amended at 20 Ill. Reg. 5659, effective March 28, 1996; emergency amendment at 20 Ill. Reg. 14002, effective October 15, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 1189, effective January 10, 1997; amended at 21 Ill. Reg. 3922, effective MAR 17 1997.

## SUBPART B: COOPERATION WITH CHILD SUPPORT ENFORCEMENT

## Section 160.30 Cooperation With Support Enforcement Program

a) As a condition of individual eligibility for AFDC, unless the Department determines there is good cause for refusing, a caretaker relative (see 89 Ill. Adm. Code 101.20 for definition of "caretaker relative") must cooperate with the Department in:

- 1) identifying and locating the responsible relative of a child for whom aid is claimed;
- 2) establishing the paternity of a child for whom aid is claimed;
- 3) obtaining support from the responsible relative; and
- 4) entering support litigation on behalf of the child or her spouse are in the home and are the caretaker relative and his or her spouse are in the home and are the caretaker relative. A caretaker relative, both must comply with the cooperation requirements. A caretaker relative who fails/refuses, without good cause (see Sections 160.35 through thru 160.45), to cooperate in the enforcement of support obligations shall be excluded from the assistance grant.

c) "Cooperating with the Department" in the context of subsection (a) of this Section above means any of the following actions that are relevant to, or necessary for, the achievement of the objectives specified in subsection (a) of this Section above:

- 1) appearing at such places as an office of the Department or the Department's legal representative (such as the Attorney General or his designee), as necessary, to provide verbal or written information, or documentary evidence, known to, possessed by, or reasonably obtainable by the caretaker relative;
- 2) appearing and testifying as a witness at judicial or administrative proceedings;
- 3) paying to the Department any child support payments received from

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the responsible relative; and  
 4) providing information, or testifying to the lack of information, under penalty of perjury for the penalty for perjury, see Section 31-2 of the Criminal Code [220 ILCS 5/32-2] 4441-Rev: State-99-2-29-39-par-32-24. All caretaker relatives must sign statement attesting that:

- A) he or she has to the best of his or her ability, provided all information requested of him or her, and
- B) all information which he or she has provided is true and correct to the best of his or her knowledge.

d) If a caretaker relative fails/refuses to comply with the requirements of subsection (c) of this Section above, he or she is ineligible for financial and medical assistance, that error is "sanctioned", for as long as the failure/refusal to cooperate continues. Grounds for a determination that a caretaker relative has failed/refused to cooperate with the requirements of subsection (c) of this Section above are as follows:

- 1) failure/refusal, without a valid reason, to appear for an appointment/interview at such places as the Department's or the Department's legal representative's office;
- 2) failure/refusal, without a valid reason, to appear and testify as a witness at a judicial or administrative proceeding;
- 3) failure/refusal, without a valid reason, to submit to a court or administratively-ordered genetic court-ordered blood test;
- 4) failure/refusal, without an appointment/interview to attest under penalty of perjury that:

- A) he or she has provided all verbal or written information or documentary evidence known to, possessed by or reasonably obtainable by him or her about the identity and location of the responsible relative; and
  - B) the information provided is true and correct to the best of his or her knowledge.
- 5) A caretaker relative may claim a valid reason for failure/refusal to appear for an appointment/interview, to appear and testify as a witness at a judicial or administrative proceeding or to submit to a court or administratively-ordered genetic court-ordered blood test.

- A) Examples of valid reasons for failure/refusal to cooperate include, but are not limited to:
  - i) illness;
  - ii) incapacity (for example, a broken leg, information of a scheduled surgery or recuperation from surgery);
  - iii) death in the family;
  - iv) non-child support Enforcement court-required appearance;
  - v) incarceration;
  - vi) family crisis;

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- vii) breakdown in child care arrangements;  
viii) sudden or unexpected emergency;  
ix) unavailability of otherwise suitable child care;  
x) breakdown in transportation arrangements or lack of reasonably available transportation;  
xi) non-receipt of appointment/interview, court date or genetic blood test.
- B) The Department will not rescind a caretaker relative to provide proof of a valid reason for failure/refusal to cooperate unless:
- the caretaker relative has failed/refused to appear for an appointment/interview, judicial or administrative proceeding or genetic blood test on at least one other occasion within a thirty-~~6~~ 30 day period from the first failure to appear; or
  - evidence, independent of the explanation of valid reason, contradicts the caretaker relative's explanation.
- C) When the Department requests proof of a valid reason, the caretaker relative must provide such proof (such as a physician's statement, dated pharmacy statement, hospital admission statement, statements by witnesses) within 10 calendar days after the request. The Department shall allow an additional 10 calendar days to provide proof at the request of the caretaker relative. If the caretaker relative does not provide the proof, his or her financial and medical assistance will be terminated.
- D) The sanction for failure/refusal to appear for an appointment/interview, judicial or administrative proceeding or genetic blood test shall be rescinded at any level of the appeal process up through and until the final agency decision and any lost benefits will be restored, if the caretaker relative establishes a valid reason for his or her failure/refusal.
- E) If a caretaker relative, who is ineligible for financial and medical assistance because of a failure/refusal to cooperate indicates that he or she is willing to cooperate, he or she will be given the opportunity to cooperate. The caretaker relative will be determined to have cooperated if he or she complies with the requirements that he or she previously failed/refused to meet as follows:
- In the case of a caretaker relative who was sanctioned for missing an interview/appointment, he or she may demonstrate cooperation by appearing at a new interview/appointment. If the caretaker relative notifies the Department that he or she is willing to cooperate, the Department will schedule a new interview/appointment no later than three (3) weeks from the date of such notification. If the caretaker relative appears at the new interview/appointment, the Department will authorize

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- assistance as of the date the caretaker relative notified the Department that he or she was willing to cooperate.
- In the case of a caretaker relative who was sanctioned for failure to submit to a genetic blood test to establish paternity, he or she may demonstrate cooperation by submitting to the genetic blood test. If the caretaker relative notifies the Department that he or she is willing to cooperate, the Department will schedule a genetic blood test within three (3) weeks from the date of such notification. If the caretaker relative submits to the genetic blood test, the Department will authorize assistance as of the date the caretaker relative notified the Department that he or she was willing to cooperate.
  - In the case of a caretaker relative who was sanctioned for not attending a court or administrative appearance, he or she may demonstrate cooperation by attending the next court or administrative appearance or, once in a court or administrative case after 30 days have passed since the missed appearance, by signing a statement that he or she is now willing to cooperate and will attend the next scheduled court or administrative appearance. Assistance for the caretaker relative shall be authorized as of the date he or she demonstrates cooperation by either method.
  - In the case of a sanctioned caretaker relative whose failure to attend a court or administrative appearance or other failure to cooperate resulted in the dismissal of the court or administrative case, he or she may demonstrate cooperation by doing what he or she failed to do or, once in a court or administrative case after 60 days have passed since the dismissal, by signing a statement that he or she is now willing to cooperate. Assistance for the caretaker relative shall be authorized as of the date he or she demonstrates cooperation by either method.
  - In the case of a caretaker relative who was sanctioned for not attesting, he or she may demonstrate cooperation by executing the attestation described in subsection (d)(4) of this Section above. Assistance for the caretaker relative shall be authorized as of the date he or she executes the attestation.
  - The Department shall not deny or terminate a pregnant caretaker relative's medical assistance because of the caretaker relative's failure to cooperate with the requirements of subsection (c) of this Section above until at least 30 days have elapsed since termination of the pregnancy.
  - A sanction for failure/refusal to comply with the requirements of subsection (c) of this Section above shall be rescinded at any level of the appeal process up through and including the final agency decision and any lost benefits will be restored, if the caretaker relative establishes good cause for failure/refusal.



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- duties, his supervisory staff and any other person assigned responsibility by the Director of the Department.
- 2) "Service" or "Served" means notice given by certified mail, return receipt requested, or by registered mail provided by law for service of process (Sections 2-203 and 2-206 of the CIVIL Practice Law [735 ILCS 5/2-203 and 2-206].)
- 3) "Support Statutes" means the following:
- Article X of the Illinois Public Aid Code [305 ILCS 5/Art. X #6];
  - The Illinois Marriage and Dissolution of Marriage Act (750 ILCS 5);
  - The Non-Support of Spouse and Children Act (750 ILCS 15);
  - The Revised Uniform Reciprocal Enforcement of Support Act [750 ILCS 20];
  - The Uniform Interstate Family Support Act (750 ILCS 22#40 et-seq.);
  - The Illinois Parentage Act of 1984 [750 ILCS 45]; and
  - Any other statute in another state which provides for child support.
- 4) "Retroactive support" means support for a period prior to the date a court or administrative support order is entered, including for reimbursement of cash assistance furnished by the Department to the custodial parent and/or children prior to the determination of support.
- b) Respite and Divisive Contact
- Timing and Purpose of Contact
    - The Department shall contact and interview responsible relatives in Title IV-D cases to establish support obligations, following the IV-D client interview.
    - The purpose of contact and interview shall be to obtain relevant facts including income information (for example, paycheck stubs, income tax returns) necessary to determine the financial ability of such relatives for use in obtaining stipulated, consent and other court orders for support and in entering administrative support orders, pursuant to the support statutes.
  - At least ten working days in advance of the interview, the Department shall notify each responsible relative contacted of his support obligation, by ordinary mail, which notice shall contain the following:
    - The Title IV-D case name and identification number;
    - The names and birthdates of the persons for whom support is sought or other information identifying such persons, such as a prior court number;
    - That the responsible relative has a legal obligation to support the dependent person;
    - The date, time, place and purpose of the interview and that the responsible relative may be represented by counsel; and

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- E) that the responsible relative should bring specified information regarding his income and resources to the interview.
- 3) The Department shall notify each Title IV-D client of the date, time and place of the responsible relative interview and that the client may attend if he or she chooses.
- c) Determination of Financial Ability
- The Department shall use the guidelines set forth below to determine the financial ability of responsible relatives to provide support in Title IV-D cases.
  - The minimum amount of child support to be established shall be determined as follows:
- | Number of Children | Percent of Responsible Relative's Net Income |
|--------------------|--|
| 1                  | 20%  |
| 2                  | 25%  |
| 3                  | 32%  |
| 4                  | 40%  |
| 5                  | 45%  |
| 6 or more          | 50%  |
- 3) "Net Income" is the total of all income from all sources, minus the following deductions:
- Estimated payments; (properly calculated withholding or estimated payments);
  - State income tax (properly calculated withholding or estimated payments);
  - Social Security (FICA payments);
  - Mandatory retirement contributions required by law or as a condition of employment;
  - Union dues;
  - Dependent and individual health/hospitalization insurance premiums;
  - Prior obligations of support or maintenance actually paid pursuant to a court order or administrative support order;
  - Expenditures for repayment of debts that represent reasonable and necessary expenses for the production of income;
  - Medical expenditures necessary to preserve life or health; and
  - Reasonable expenditures for the benefit of the child and the other parent, exclusive of gifts.
- 4) The deductions in subsections (C)(3)(B), (I) and (J) of this Section shall be subtracted from the net income that such payments are made. The Department shall enter administrative, or request the court to enter support orders which contain provisions for an automatic increase in the support obligation upon termination of such payment period.
- 5) The above guidelines shall be applied in each case unless the

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Department finds that application of the guidelines would be inappropriate after considering the best interests of the child in light of evidence including but not limited to one or more of the following relevant factors:

- A) the financial resources and needs of the child;
  - B) the financial resources and needs of the custodial parent;
  - C) the standard of living the child would have enjoyed had the marriage not been dissolved, the separation not occurred or the parties married;
  - D) the physical and emotional condition of the child, and his educational needs; and
  - E) the financial resources and needs of the non-custodial parent.
- 6) Each parent requiring support which deviates from the guidelines shall articulate the support that would have been required under the guidelines. The reason or reasons for the variance from the guidelines shall be included in the order.
- 7) In cases where health/hospitalization insurance coverage is not being furnished by the responsible relative to a child to be covered by a support order, the Department shall enter administrative, or request the court to enter support orders requiring the relative to provide such coverage when a child can be added to an existing insurance policy at reasonable cost. However, in Title IV-D non-AFDC cases where the client is neither an applicant for nor a recipient of Medical Assistance, the Department shall enter or request such support orders only with the client's consent. Net income shall be reduced by the cost thereof in determining the minimum amount of support to be ordered.

- 8) When proceeding under subsection (d) of this Section, the Department shall, in any event, notwithstanding other provisions of this subsection and regardless of the amount of the responsible relative's net income, request the responsible relative to child support of at least \$10.00 per month.
- 9) In cases where cash assistance was provided to the custodial parent and/or children during the period prior to entry of a court or administrative support order, and the net income of the responsible relative cannot be determined because of default or any other reason, the Department shall order or request the court to order the responsible relative to pay retroactive support for the prior period in the amount of the child's portion of the cash assistance grant provided, of the amount of the child's needs, whichever is greater.

- 10) The final order in all cases shall state the support level in dollar amounts.

- 11) If there is no net income because of the unemployment of a responsible relative who resides in Illinois and is not receiving General Assistance in the City of Chicago and has children

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receiving cash assistance in Illinois, the Department, when proceeding under subsection (d) of this Section below, shall order, or, when proceeding under subsection (e) of this Section below, shall request the court to order the relative to report for participation in job search, training or work programs established for such relative.

- 12) The Department shall enter administrative support orders, or request the court to enter support orders, that include a provision requiring the responsible relative to notify the Department, within seven days:
  - A) of any new address of the responsible relative;
  - B) of the name and address of any new employer or source of income of the responsible relative;
  - C) of any change in the responsible relative's Social Security number;
  - D) whether the responsible relative has access to health coverage; and
  - E) if so, the policy name and number and the names of persons covered under the policy.

- 13) The Department shall enter administrative support orders, or request the court to enter support orders, that include a date on which the current support obligation terminates. The termination date shall be no earlier than the date on which the child covered by the order will attain the age of majority or is otherwise emancipated. The order for support shall state that the termination date does not apply to any arrears that may remain unpaid on that date. The provision of a termination date in the order shall not prevent the order from being modified.

- d) Administrative Process
  - 1) Use of Administrative Process
    - A) Department FRS's shall establish support obligations of responsible relatives through the administrative process set forth in this subsection (d), in Title IV-D cases, wherein the court has not acquired jurisdiction previously, in matters involving:
      - i) presumed paternity as set forth in Section 5/401.12-401.13 of the Illinois Parentage Act of 1984 (750 ILCS 45/401.12-401.13) and support is sought from one or both parents;
      - ii) alleged paternity and support is sought from the mother; and
      - iii) an administrative paternity order entered under Section 160.61 and support is sought from the man determined to be the child's father, or from the mother, or both; and
      - iv) an establishment of parentage in accordance with Section 6 of the Illinois Parentage Act of 1984 (750 ILCS 6/1-6/10).

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B) In addition to those items specified in subsection (b)(2) of this Section, the notice of support obligation shall inform the responsible relative of the following:

- i) that the responsible relative may be required to pay retroactive support, and that he may be liable for reimbursements for public assistance furnished the named persons prior to determination of the ability to support; and
- ii) that upon failure of the responsible relative to appear for the interview or to provide necessary information to determine net income, an administrative support order may be entered by default or the Department may seek court determination of financial ability based upon the guidelines.

2) The FSS shall determine the ability of each responsible relative to provide support in accordance with subsection (c) of this Section when such relative appears in response to the notice of support obligation and provides necessary information to determine net income. An administrative support order shall be entered which shall incorporate the resulting support amount therein. The FSS shall also determine (and incorporate in the administrative support order) the amount of retroactive support the responsible relative shall be required to pay by applying the relative's net income. The FSS shall determine the relative's net income by using the information to determine net income provided to the support guidelines in accordance with subsection (c) of this Section. In cases where cash assistance was provided to the custodial parent and/or child during the period prior to the entry of the administrative support order, and the net income of the responsible relative cannot be determined because of default or any other reason, the FSS shall order the responsible relative to pay retroactive support for the prior period in the amount of the cash assistance provided, as specified in subsection (c)(9) of this Section. In administrative process cases, the period prior to the entry of the administrative support order shall commence with the parties' separation, unless the child was born out of wedlock and paternity was determined under Section 160-61 or under Section 12 of the Vital Records Act 1410 ICS 535/121, in which case such period shall commence with the child's birth.

3) Failure to Appear.

- A) In instances in which the responsible relative fails to appear in response to the notice of support obligation or fails to provide necessary information to determine net income, the FSS shall enter an administrative support order by default, except as provided in subsection (c)(3)(D) of this Section. The terms of the order shall be based upon

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the needs of the child persons for whom support is sought, as furnished by affidavit of the IV-D client, or the child's portion of the cash assistance grant, whichever is greater. No default order shall be entered when a responsible relative fails to appear at the interview unless the relative shall have been served as provided by law with a notice of support obligation.

B) The FSS may, at its discretion, to a responsible relative who fails to appear for interview, or who appears and furnishes information, when the FSS has information from the Title IV-D client, the relative's employer or any other reliable source indicating that:

- i) financial ability, as determined from the guidelines contained in subsection (c) of this Section above, exceeds the amount indicated in case of default, as indicated in subsection (d)(3)(A) of this Section; or
  - ii) income exceeds that reported by the relative.
- C) The FSS will not issue a subpoena under subsection (d)(3)(B) of this Section where the information from the Title IV-D client, the responsible relative's employer or other source concerning the relative's financial ability is verified through documentation such as payroll records, paycheck stubs or income tax returns.
- D) In instances in which the relative fails or refuses to accept or fully respond to a Department subpoena issued pursuant to subsection (d)(3)(B) of this Section, the FSS may enter a retroactive administrative support order by default, in accordance with subsection (d)(3)(A) of this Section, and may then seek establishment of support obligations through the judicial process pursuant to subsection (e) of this Section.

4) Registration of Order of Another State.

- A) The FSS shall register a support order entered by a court or administrative body of any other state referred for establishment and enforcement of an Illinois support obligation, on behalf of persons receiving Title IV-D services from such state, upon receipt of the following:

- i) a request that another state's support order be administratively registered to effect interstate income withholding;
- ii) the referring state's IV-D case name and identification number;
- iii) the names and birthdates of the persons for whom support is ordered;
- iv) a certified copy of the support order with all modifications;
- v) a certified copy of an order for withholding, if any,



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still in effect:

- v) a certified copy of the payment record or, if there is no payment record, an affidavit attesting to the amount of arrearage which has accrued under the support order;
- vii) the name, address, and social security number of the responsible relative; and
- viii) the name and address of the responsible relative's employer or any other source of income of the relative from which withholding may be effected, if known.
- B) When registered such order shall become an administrative support order of the Department. The FSS shall enter a separate administrative support order of the Department which shall contain the terms of the registered order.

5) An administrative support order shall include the following:

- A) the Title IV-D case name and identification number;
- B) the names and birthdates of the persons for whom support is ordered;
- C) the beginning date, amount and frequency of support;
- D) the total retroactive support obligation and the beginning date, amount (which shall not be less than 20% of the current support amount) and frequency of payments to be made until the retroactive support obligation is paid in full;
- E) the amount of any arrearage that has accrued under a prior support order and the beginning date, amount (which shall not be less than 20% of the support order) and frequency of payments to be made until the arrearage is paid in full;
- F) the manner in which support payments are to be made; and
- G) a statement informing the responsible relative that he has 30 days from the date of mailing of the administrative support order in which to petition the Department for a release from or modification of the order and receive a hearing in accordance with 89 Ill. Adm. Code 104.102.

6) Upon entry of any administrative support order, the FSS shall issue a separate administrative order for withholding based upon the information provided in the petition and the FSS shall inform the responsible relative of the grounds for a petition and the time within which to petition the Department for stay service of or to modify, suspend or terminate the order for withholding, or to stay service of the notice of delinquency and receive a hearing in accordance with 89 Ill. Adm. Code 104.104.

7) The FSS shall provide to each responsible relative a copy of each administrative order for support and for withholding entered by the Department at the conclusion of an interview where financial ability to support was determined. An acknowledgment of receipt signed by the relative or an affidavit of delivery signed by the FSS shall be sufficient for purposes of notice.

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- B) certified mail where the relative fails or refuses to accept delivery or the orders are entered by default.
- C) service in the case of registration of the support orders of another state. A copy of such state's orders shall be served with those of the Department.

8) The FSS shall provide to each Title IV-D client a copy of each administrative order for support and for withholding entered.

- e) Judicial Process
- 1) Department FSS's shall refer Title IV-D cases for court action to establish support obligations of responsible relatives, pursuant to the support statutes (see subsection (a)(3) of this Section) in matters requiring the determination of parentage (except when paternity is to be determined administratively under Section 160.01), in those wherein the court has acquired jurisdiction previously and in instances described in subsection (d)(3)(DE) of this Section.

2) The FSS shall prepare the transmit pleadings and obtain or affix appropriate signatures hereto which pleadings shall include, but not be limited to, petitions to:

- A) intervene;
- B) modify;
- C) change payment path;
- D) establish an order for support;
- E) establish retroactive support;
- F) establish past-due support;
- G) obtain an order for withholding;
- H) establish parentage;
- I) obtain a rule to show cause; and
- J) combinations of the above.

(Source: Amended at 21 Ill. Reg. 3920, effective \_\_\_\_\_)

Section 160.61 Uncontested and Contested Administrative Paternity and Support Establishment

a) Definitions

- 1) "Combined paternity index" means a statistic, stated as an odds ratio in a report of genetic testing results, giving the likelihood that the man having undergone the testing is the father of the child relative to the chance that the father is another man from the same racial background.
- 2) "Genetic testing" means deoxyribonucleic acid (DNA) tests.
- 3) "Service" or "Serve" means notice given by personal service, certified mail, return receipt requested, or by any method provided by law for service of a summons. (See Sections 2-203 and 2-206 of the Civil Practice Law [735 ILCS 5/2-203 and

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- 2-2061.)
- 4) "non-marital child", as used in this Section and Section 160.62, means a child born out of wedlock for whom paternity has not been established; the child's mother, and support is sought from the alleged father;
  - 5) "Alleged father", as used in this Section and Section 160.62, means a man alleged to be the father of a non-marital child;
  - 6) "Presumed father" shall have the meaning ascribed to that term in the Illinois Parentage Act of 1984 (750 ILCS 45).
  - b) Uncontested Administrative Paternity Process
    - 1) Department FGS's shall establish a man's paternity of a child through the administrative process set forth in this Section, in Title IV-D cases, wherein the court has not acquired jurisdiction previously, in matters involving:
      - A) a non-marital child and support is sought from the alleged father;
      - B) a non-marital child who is in the physical custody of the alleged father or a caretaker relative other than the child's mother, and support is sought from the alleged father or from the mother, or both; or
      - C) presumed paternity as set forth in Section 5(a)(1) and (2) and (3) of the Illinois Parentage Act of 1984 (750 ILCS 45/5(a)(1) and (2) and (3)) in which a man other than the presumed father has been alleged to be the child's father, and notice has been provided to the alleged and presumed father as set forth in this Section.
  - 2) Contact with Responsible Relatives
    - A) Following the IV-D client interview, the Department shall contact and interview:
      - i) alleged fathers to establish paternity and support obligations; and
      - ii) mothers to establish an alleged father's paternity of a child (where the alleged father or a caretaker relative other than the mother has physical custody of the child) and to establish the support obligation of the alleged father, the mother, or both.
    - B) The purpose of contact and interview shall be to obtain relevant facts including information concerning the child's paternity and responsible relative income information (for example, paycheck stubs, income tax returns) necessary to establish the child's paternity and to determine the responsible relative's financial ability for use in establishing child support obligations.
  - 3) At least ten working days in advance of the interview, the Department shall provide a notice of alleged paternity and support obligation by ordinary mail, to the alleged father, from whom child support is sought, which notice shall contain the following:
    - A) the Title IV-D case name and identification number;

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- B) the name and birthdate of the non-marital child;
- C) that the alleged father has been identified as the biological father of the child named in the notice, and that if determined to be the child's father he will have a legal obligation to support the child;
- D) the date, time, place and purpose of the interview and that the alleged father may be represented by counsel;
- E) that the alleged father should bring specified information regarding his income and resources to the interview;
- F) that upon failure of the alleged father to appear for the interview, administrative paternity and support orders may be entered against him by default; and
- G) that the alleged father may be ordered to pay current support, retroactive support, and to provide health insurance coverage for the child.
- 4) At least ten working days in advance of the interview, the Department shall provide a notice of alleged paternity and support obligation to the child's mother by ordinary mail, when a man has been alleged to be the father of the child, the alleged father has physical custody of the child, and support is sought from the alleged father. The notice shall contain the following:
  - A) the Title IV-D case name and identification number;
  - B) the name and birthdate of the non-marital child;
  - C) that the mother has a legal obligation to support the child; and
  - D) the date, time, place and purpose of the interview and that the mother may be represented by counsel;
  - E) that the mother should bring specified information regarding her income and resources to the interview;
  - F) that the mother may be ordered to pay current support, retroactive support, and to provide health insurance coverage for the child;
  - G) that the alleged father has been identified as the biological father of the child named in the notice, and that if determined to be the child's father he will have a legal obligation to support the child; and
  - H) that upon failure of the mother to appear for the interview, or that upon necessary information to determine income:
    - i) an administrative support order may be entered against the mother by default or the Department may seek court determination of financial ability based upon the guidelines, and
    - ii) the mother may enter an order finding the alleged father to be the father of the child.
- 5) At least ten working days in advance of the interview, the Department shall provide a notice of alleged paternity and support obligation to the child's mother by ordinary mail, when a man has been alleged to be the father of a child, an adult other than a parent of the child has physical custody of the child, and

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support is sought from the mother and the alleged father. The notice shall contain the following:

- A) the Title IV-D case name and identification number;
- B) the name and birthdate of the non-marital child;
- C) that the mother has a legal obligation to support the child;
- D) the date, time, place and purpose of the interview and that the mother may be represented by counsel;
- E) that the mother should bring specified information regarding her income and resources to the interview;
- F) that the mother may be ordered to pay current support, retroactive support, and to provide health insurance coverage for the child;
- G) that the alleged father has been identified as the biological father of the child named in the notice, and that if determined to be the child's father he will have a legal obligation to support the child; and
- H) that upon failure of the mother to appear for the interview, or to provide necessary information to determine net income:
  - 1) the mother by default or the Department may seek court declaration of financial ability based upon the information provided;
  - 11) the Department may enter an order finding the alleged father to be the father of the child on the basis of genetic testing.

- 6) Where the man alleged to be the father of a child is different from a man presumed to be the father under Section 5(a)(1) and (2) of the Illinois Parentage Act of 1984 (750 ILCS 45/5(a)(1) and (2)), the FSS shall send a notice to the presumed father which shall contain the following:

- A) the Title IV-D case name and identification number;
- B) the child's name and birthdate;
- C) that the name of the child's mother;
- D) that the man to whom the notice is directed has been identified as the child's presumed father;
- E) that another man has been alleged to be the child's father, and the name of that alleged father;
- F) that the Department has scheduled an interview with the alleged father for the purpose of determining the child's paternity, and the date, time and place of the interview; workdays of the interview shall not be less than ten workdays after the date of the notice to the presumed father;
- G) that if the presumed father fails to appear at the interview to assert his rights as the presumed father, the Department may enter an administrative order finding the alleged father to be the child's father on the basis of genetic testing, or if the alleged father and the child's mother voluntarily

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sign an acknowledgment that the alleged father is the father of the child; and

- H) that counsel may accompany the presumed father to the interview.
- 7) The Department shall notify each Title IV-D client of the date, time and place of the alleged father interview and that the client may attend if the client chooses.
- 8) In cases involving a non-marital child:
  - A) The FSS shall provide the alleged father and the child's mother an opportunity to establish paternity by voluntarily signing an acknowledgment of paternity (and, in a case in which there is also a presumed father, an opportunity for the mother and the presumed father to sign a denial of paternity), after being provided with information concerning the implications of signing the acknowledgment (and denial), including parental rights and responsibilities of child support, retroactive support, health insurance coverage, custody and visitation.
  - B) The FSS shall enter and serve an administrative paternity order finding the alleged father to be the father of the child where:
    - 1) the alleged father and the child's mother (and any presumed father) have voluntarily signed an acknowledgment that the alleged father is the father of the child after being provided with information concerning the implications of signing such an acknowledgment (for example, parental rights and responsibilities of child support, retroactive support, health insurance coverage, custody and visitation);
    - 11) the alleged father and the child's mother (and any presumed father) have voluntarily signed an agreement to be bound by the results of genetic testing, and the results of such testing show that the alleged father is not excluded and that the combined paternity index is at least 500 to 1;
    - 111) the alleged father fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon him in a case in which support is sought from the alleged father, or fails to appear for scheduled genetic testing or genetic testing in agreement to be bound by the results of genetic testing;
    - 1111) the child's mother fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon her in a case where the alleged father has physical custody of the child;

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iv)† the child's mother fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon her in a case where an adult other than a parent of the child has physical custody of the child, the alleged father has voluntarily signed an agreement to be bound by the results of genetic testing, the results of genetic testing show that the alleged father is not excluded, and the combined paternity index is at least 500 to 1;

vi)† the alleged father fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon him (or fails to appear for genetic testing after agreeing to be bound by the results of genetic testing) in a case where an adult other than a parent of the child has physical custody of the child;

vii)† the Department's notice to appear in response to him, and the alleged father and the child's mother have voluntarily signed an acknowledgment that the alleged father is the father of the child after being provided with information concerning the legal implications of signing such an acknowledgment; or

viii)† the presumed father fails to appear in response to the Department's notice to presumed father served upon him, the child's mother, and the alleged father have voluntarily signed an agreement to be bound by the results of genetic testing, the results of genetic testing show that the alleged father is not excluded, and the combined paternity index is at least 500 to 1.

or

viii)† the alleged father fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon him, and the presumed father fails to appear in response to the Department's notice to presumed father served upon the presumed father.

C)† The PDS be amended to determine that the alleged father is not the father of the child where the results of genetic testing exclude the alleged father.

9) An acknowledgment of paternity or agreement to be bound by the results of genetic testing under subsection (b)(8)(B) of this Section shall not be valid where the mother or alleged father is a minor, unless the parent or guardian of the minor mother or minor alleged father also signs the acknowledgment of paternity or agreement to be bound by the results of genetic testing, except where the mother or alleged father is either emancipated or head of his or her own household with the child for whom

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paternity is being determined.

10) A man against whom a default administrative paternity order has been entered pursuant to subsection (b)(8)(B)(iii), (b)(8)(B)(v) or (b)(8)(B)(viii) of this Section may have the order vacated if, within 30 days after being served with the order, he appears in person at the office to which he was given notice to appear for an interview pursuant to subsection (b)(3) of this Section and files a written request for relief from the order. The PDS shall be amended to provide that the establishment of paternity under this Section. A man may obtain relief under this subsection only once in any proceeding to establish paternity.

c) Contested Paternity and Support Establishment and Continued

1) Eligibility Demonstration Program: a demonstration program for administrative paternity and support establishment and continued eligibility for individual parents of a non-marital child who are applicants for or recipients of cash assistance under Articles I and VI of the Illinois Public Aid Code.

2) a demonstration program shall be implemented statewide but phased in--beginning with the following counties:--Cass, Champaign--Christian--DeWitt--Pulaski--Tazewell--Macoupin--Mason--McHenry--Menard--Montgomery--Morgan--Monterey--Peoria--Perry--Sangamon--Shelby--Tazewell--Woodford--McLean County shall be designated as a control county with custodial parents randomly selected for participation in the demonstration program--in those demonstration program cases in which the mother and alleged father (and any presumed father) voluntarily acknowledge paternity by affidavit in the form required by the Department, agree to be bound by the results of genetic testing or in the alleged father has failed to respond to a notice of notice of alleged paternity--and--support--obligation--the establishment--shall administratively determine--paternity--and--establish--a support order--in accordance with--subsection--(b)--of this Section--

Section 160.62--respectively, shall be implemented Statewide with the demonstration programs in McLean County randomly assigned to one of the three treatment groups:

A) an experimental treatment group, which will be subject to the provisions of Section 160.62;

B) a non-experimental treatment group, which will also be subject to the provisions of Section 160.62; and

C) a control group, which will be subject to the provisions of Section 160.30.

3) Applicants and recipients in all counties other than McLean County shall be assigned to the non-experimental treatment group and subject to the provisions of Section 160.62.

4) In demonstration program cases in which paternity is uncontested, the Department shall establish paternity in accordance with

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## subsection (b) of this Section.

5147 demonstration program cases in which paternity is contested shall be referred to Department hearing officers to administratively determine paternity and establish child-support. The Department shall provide the alleged father fathers (and any presumed father fathers) with notice and opportunity to contest paternity with administrative hearing, as well as to inform the alleged father (and any presumed father) of his right to demand a judicial trial by jury. The notice and any hearing shall be governed by Sections 104.200 through 104.295. Any administrative support order shall be established in accordance with Section 160.60.

5151 Notice shall be served on all parties in the manner provided for service of a notice of alleged paternity and support obligation under subsections (a) and (b) of this Section or, where necessary, by publication in cases in which the whereabouts of a party or parties are unknown after diligent location efforts by the Department. Where service is by publication, the notice shall be published at least once in each week for three consecutive weeks in a newspaper published in the county in which the administrative proceeding is pending. If there is no newspaper published in that county, then the publication shall be in a newspaper published in an adjoining Illinois county having a circulation in the county in which the administrative proceeding is pending. In addition, where service is by publication, the notice of the interview stated in the notice shall not be less than 30 days after first publication of the notice.

7167 The Department shall defer paternity determinations in demonstration program cases as provided for under subsection (b) of this Section. However, where notice of the administrative proceedings was served on a party by publication under subsection (c)(6) of this Section, a notice of default paternity determination shall be published in the same manner. The notice of default paternity determination shall contain the information required in an administrative paternity order under subsection (d) of this Section, except that where notice was served by publication the notice of default paternity determination shall not include the mother's and father's Social Security numbers, and shall include a statement of the following in lieu of a statement that the order is a final and binding administrative decision:

- A) that the man determined to be the child's father may bring a petition in the circuit court for relief from the administrative paternity determination on the same grounds provided for relief from judicial judgments under Section 1-1401 of the Code of Civil Procedure (735 ILCS 5/2-1401);
- B) that such a petition must be filed no later than two years after the notice of default paternity determination was

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published, and

C) that allegations made in such a petition without reasonable cause that are found to be untrue by the circuit court may subject the petitioner or his attorney, or both, to the payment of reasonable costs and attorney's fees incurred by the Department in defending against the petition.

8177 In those cases in which the alleged father or presumed father has requested a trial by jury, the Department shall refer the case for judicial action to establish paternity and support in accordance with subsection (g) of this Section.

9167 The Department shall not proceed to establish paternity administratively under the demonstration program in those cases wherein the court has acquired jurisdiction previously, the alleged or presumed father has requested a trial by jury, or the custodial parent claims good cause for failing to cooperate in the establishment of paternity and is found to be exempt from cooperating as set forth in Section 160.35.

10197 In any case where the administrative paternity process has been initiated for the custodial parent and the non-marital child, and the custodial parent and the non-marital child move outside the original demonstration program, the paternity determination order remains in effect until the original demonstration court orders transfer to the county in which the non-custodial parent and the non-marital child reside is requested by the custodial parent, in writing, within ten days after the move outside the original demonstration county.

d) An administrative paternity order, whether entered under subsection (b) or subsection (c) of this Section, shall include the following:

- 1) the title IV-D case name and identification number;
- 2) the name and birthdate of the child for whom paternity is determined;
- 3) the alleged father's name and his Social Security number, if known;

4) the mother's name and her Social Security number, if known;

5) a finding that the alleged father is the father of the child, and a statement indicating how paternity was determined (for example, acknowledgment, agreement to be bound by the results of genetic testing, default, contested hearing);

6) except in cases in which paternity is administratively determined under subsection (b)(8)(B)(iii), (b)(8)(B)(iv), or (b)(8)(B)(viii) of this Section, or in a contested hearing under subsection (c) of this Section, a statement of the date of mailing for delivery at the place of the administrative paternity order to petition the Department for release from the order and receive a hearing in accordance with 89 Ill. Adm. Code 104.105; and

7) in cases in which paternity is administratively determined by default under subsection (b)(8)(B)(iii), (b)(8)(B)(iv) or



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(b)(8)(B)(viii) of this Section, a statement informing the responsible relative of the relief available pursuant to subsection (b)(8)(B)(viii) of this Section, and in cases in which paternity is administratively determined in a contested hearing under subsection (c) of this Section, a statement informing the responsible relative that the order is final and binding administrative decision, and whether the order is reviewable only under the provisions of the Administrative Review Law [735 ILCS 5/Art. III].

e) When the paternity of a child has been administratively established determined under subsection (b) or (c) of this Section, the Department shall enter an administrative support order under the process set forth in Section 160.60y except in the demonstration program under subsection (c) of this Section when paternity is established by default (including default after publication of the notice of alleged paternity and support obligation) the Department shall order the responsible relative to pay child support of at least an amount equal to the child's or children's portion of the cash assistance grant. The responsible relative shall have the same appeal rights for review or modification of the support obligation amount as those set forth in Section 160.60.

f) The Department shall notify the Department of Public Health of final administrative paternity determinations and voluntary acknowledgments of paternity. The Department shall refer Title IV-D cases for judicial action to establish a child's paternity and a responsible relative's support obligation pursuant to the Illinois Parentage Act of 1984 [750 ILCS 45], the Revised Uniform Reciprocal Enforcement of Support Act [750 ILCS 20] or the Uniform Interstate Family Support Act [750 ILCS 22], as appropriate, in matters:

- 1) involving contested paternity, except where the case is appropriate for referral to a Department hearing officer under subsection (c) of this Section;
- 2) where the non-marital child was not conceived in Illinois and the alleged father resides in a state other than Illinois;
- 3) where the court has acquired jurisdiction previously;
- 4) where the results of genetic testing show that the alleged father is not excluded and the combined paternity index is less than 500 to 1, except where the case is appropriate for referral to a Department hearing officer under subsection (c) of this Section; or
- 5) where the alleged or presumed father has requested a trial by jury in a contested case under subsection (c) of this Section, but only after genetic tests have been ordered and the results have been received in accordance with Section 104.213.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective 3/2/92)

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# Section 160.62 Cooperation with Paternity Establishment and Continued Eligibility Demonstration Program

- a) Unless the Department determines there is good cause for failure to cooperate (see Sections 160.35 through 160.51), a custodial parent of a non-marital child in a case assigned to enter the experimental or demonstration program shall be required to participate in the establishment and continued eligibility demonstration program under subsection (c) of Section 160.61 must cooperate with the Department's efforts to establish the child's paternity as required under this Section. If the alleged father is in the home with the custodial parent and included in the assistance unit, both parents must comply with the cooperation requirements.
- b) The provisions of Section 160.30, on cooperation with the support enforcement program, shall apply to the cases described in subsection (a) of this Section, unless otherwise provided in this Section.
- c) A custodial parent in a case described in subsection (a) of this Section cannot attest to lack of information under subsection (c) of Section 160.30, but must furnish to the Department at the time of the notification required under subsection (d) of this Section a written statement, under penalty of perjury, setting forth the following verifiable information about the alleged father, or, if more than one person is an alleged father, about each such person:

- 1) the name and social security number of the alleged father; or
- 2) the name of the alleged father and at least two of the following items of identifying information related to the alleged father:
  - A) date of birth;
  - B) address;
  - C) telephone number;
  - D) name and address of past or present employer;
  - E) name and address of union or trade association;
  - F) past or present school attended;
  - G) names and addresses of parents;
  - H) names and addresses of other relatives or friends;
  - I) the manufacturer's model and license number of any motor vehicle owned by the alleged father;
  - J) other verifiable information concerning the alleged father, such as information about military service, involvement with the criminal justice or penal systems, receipt of public assistance or unemployment insurance benefits or the assistance of professional, occupational or recreational licenses.

- d) All custodial parents in the cases described in subsection (a) of this Section shall be notified, in writing, of the cooperation requirements and sanctions for failure to comply with those requirements under this Section during intake, when adding a non-marital child to their grant



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(including cases where the new child is subject to the family cap under 89 Ill. Adm. Code 112 and 170), or, for existing cases with a non-marital child, at any time beginning with the effective date of this Section.

- 2) A custodial parent who fails to cooperate, without good cause, at any time during the first six months following the notification required under subsection (d) of this Section, shall be excluded from the assistance grant, and the non-marital child's portion of the assistance benefits will be terminated, and the custodial parent shall be required to cooperate, without good cause, that continues beyond the six-month period after the notification required under subsection (d) of this Section, or an instance of non-cooperation that occurs after the six-month period following a period during which the custodial parent was deemed to be cooperating (such as failure to appear for a court or administrative proceeding, or failure to submit to or bring the non-marital child in for court or administratively-ordered genetic testing), will result in sanctions by the Department as follows:

- 1) If the custodial parent was sanctioned for failure to furnish identifying information concerning the alleged father or for any other instance of non-cooperation, without good cause, at any time during the first six months following the notification required under subsection (d) of this Section, and non-cooperation continues beyond the end of the six-month period, then:

- A) beginning with the seventh month following notification, in addition to continued exclusion of the custodial parent from the assistance grant, the non-marital child's portion of the assistance benefits will be terminated, and the custodial parent shall be required to cooperate, without good cause, on which the custodial parent cooperates, without good cause, after the end of the first six months following the notification required under subsection (d) of this Section, and the custodial parent had not previously been sanctioned for non-cooperation, then:

- 2) If an instance of non-cooperation, without good cause, occurs after the end of the first six months following the notification required under subsection (d) of this Section, and the custodial parent had not previously been sanctioned for non-cooperation, then:

- A) the custodial parent will be excluded from the assistance grant; and
- B) if the custodial parent then cooperates within the sanction month, the sanction will be removed for the following month; however

- C) if the non-cooperation continues through the sanction month, the non-marital child's portion of the family's cash assistance benefits will be terminated beginning the following month, and the sanction will not be removed until the month following the date on which the custodial parent cooperates.

- 3) If an instance of non-cooperation, without good cause, occurs after the end of the first six months of the requirement to cooperate, following a period during which the custodial parent

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was deemed to be cooperating, but the custodial parent had, at any earlier time following the notification required under subsection (d) of this Section, been sanctioned for non-cooperation, then:

- A) in addition to excluding the custodial parent from the assistance grant, the non-marital child's portion of the assistance benefits will be terminated, and the custodial parent shall be required to cooperate, without good cause, until the date on which paternity is established, unless it is determined by the Department that:

- 1) the custodial parent has provided the identifying information related to the child's alleged father, as specified in subsection (c) of this Section, and fully cooperated; and

- 2) the failure to establish paternity is attributable to the Department for reasons such as trial or hearing continuances, or failure to arrange genetic testing or to make findings after a paternity administrative hearing, or to serve the alleged father with process or notice as provided by law.

- 3) The failure of a custodial parent to provide sufficient identifying information about the alleged father, as required under subsection (c) of this Section, shall not be determined to be non-cooperation if:

- 1) the custodial parent has had an assistance grant that includes the non-marital child for at least 10 years prior to the notification provided to the custodial parent under subsection (d) of this Section, and the custodial parent makes a good faith effort to cooperate, without good cause, indicating that she does not know the identifying information about the alleged father because she has had no contact with him since the non-marital child was included in the assistance grant; or

- 2) the custodial parent does not know the required information because:

- A) the custodial parent is developmentally disabled, as documented by a copy of an intelligence quotient test result, or the written statement of a qualified medical practitioner; or

- B) the custodial parent is mentally ill, or was mentally ill at the time the non-marital child was conceived, as documented by the written statement of a qualified medical practitioner stating that the nature of the mental illness prevented the person from knowing the required information; or

- C) the custodial parent has a history of drug or alcohol abuse, and provides documentation of treatment for such abuse taken at the time the non-marital child was conceived, and the custodial parent provides whatever identifying information she does possess about the alleged father.

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- b) All applicants and recipients subject to the provisions of this Section shall have the same appeal rights, including the right to a fair hearing, as any other applicant or recipient notified of an adverse action.

(Source: Added at 21 Ill. Reg. 0000, effective 0000)

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1) Heading of the Part:

WIC Vendor Management Code

2) Code Citation:

77 Ill. Adm. Code 672

3) Section Numbers:

672.100  
672.200  
672.205  
672.450  
672.505  
672.510  
672.610

Adopted Action:

Amendment  
Amendment  
Amendment  
Amendment  
Amendment  
Amendment

4) Statutory Authority: Implementing and authorized by the WIC Vendor Management Act (410 ILCS 235).

5) Effective Date of Amendments: March 15, 1997

6) Does this Rulemaking Contain an Automatic Repeal Date? No

7) Does this Rulemaking Contain any Incorporation by Reference? No

8) Date Filed in Agency's Principal Office: March 15, 1997

9) Date Notice of Proposed Rulemaking was Published in the Illinois Register:

October 11, 1996; 20 Ill. Reg. 13264

10) Has the Joint Committee on Administrative Rules Issued a Statement of Objection to this Rulemaking? No

11) Difference Between Proposal and Final Version: No substantive changes were made between proposal and final version.

12) Have all the changes urged upon by the Agency and the Joint Committee been made as indicated in the amendment letter issued by the Department of Public Health? Yes  
Committee All technical changes agreed upon by the Department and the Joint Committee have been made as indicated in the agreement letter issued by the Joint Committee.

13) Will the Rulemaking Replace an Emergency Rule Currently in Effect? No

14) Are there any other Amendments Pending on this Part? No

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- 15) Summary and Purpose of Amendments: The WIC Vendor Management Code establishes authorization, education and compliance review of WIC retail vendors by the Department of Public Health, and enables the Department to carry out its responsibilities for fiscal management and accountability for the food delivery system under its jurisdiction.

This proposed rulemaking will make the following modifications to this Part:

- Add a new definition for "Limited Liability Company" to Section 672.100, meaning a company organized and existing under the Limited Liability Company Act [805 ILCS 180].
- Remove from Section 672.200 duplicate language for Participant/Vendor notification and add further contract parameters and additional application request language.
- Add to Section 672.205 application procedures for a Limited Liability Company from Section 672.200.
- Include, in Section 672.505, Limited Liability Companies and modify the Class B violation for failure to maintain the minimum required quantity of two WIC foods to failure to maintain the required quantity of WIC infant formula.
- Eliminate from Section 672.510 a cap on the total fine assessed in any one notice of violation.
- Include companies organized under the "Limited Liability Company Act" in Section 672.610.

Information and Questions Regarding these Adopted Amendments shall be directed to:

Gail M. Devito  
Administrative Rules Coordinator  
Division of Governmental Affairs  
535 West Jefferson  
Springfield, Illinois 62761  
(217)782-6187

The full text of the Adopted Amendments begins on the next page:

TITLE 77: PUBLIC HEALTH  
CHAPTER 1: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER 1: MATERNAL AND CHILD HEALTH  
  
PART 672  
WIC VENDOR MANAGEMENT CODE

## DEPARTMENT OF PUBLIC HEALTH

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## SUBPART A: GENERAL PROVISIONS

Section  
672.100 Definitions  
672.105 Incorporated and Referenced Materials  
672.110 Purpose  
672.115 Application of These Rules

## SUBPART B: WIC VENDOR APPLICATION AND AUTHORIZATION PROCESS

Section  
672.200 Geographic Distribution and Number of Vendors  
672.205 Application Procedures  
672.210 Minimum and Maximum Contract Quantities and Procedures  
672.215 WIC Food List and Quantities  
672.220 Criteria for Denial of Authorization  
672.225 Denial of Authorization

## SUBPART C: WIC VENDOR EDUCATION

Section  
672.300 Initial WIC Retail Training by the Department  
672.305 Initial WIC Retail Training by a Vendor  
672.310 Annual WIC Retail Training Program  
672.315 Compliance Training Workshop (Repealed)

## SUBPART D: WIC VENDOR AUTHORIZATION AND RESPONSIBILITIES

Section  
672.400 Authorization  
672.405 WIC Vendor Contract Requirement  
672.410 Expiration of WIC Vendor Authorization and Contract  
672.415 Food Instrument Processing  
672.420 Rejection of Food Instruments  
672.425 WIC Retail Vendor Responsibilities  
672.430 Payment Obligation  
672.435 Conflict of Interest  
672.440 Unlawful Discrimination  
672.445 Amendments Resulting From a Change in Statute or Regulation  
672.450 Assignment or Transfer  
672.455 Civil Law Suits  
672.460 Voluntary Withdrawal from the WIC Vendor Contract  
672.465 Notices

## SUBPART E: WIC VENDOR COMPLIANCE AND SANCTIONS

Section  
672.500 Compliance Monitoring Inspections

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- 672-505 Violations  
 672-510 WIC Vendor Sanctions  
 672-515 Criteria for Termination or Suspension of Authorization, Prohibition, and/or Fine Assessment  
 672-520 Breach of Contract  
 672-525 Notice of Violation (Repealed)

SUBPART F: RULES OF PRACTICE AND PROCEDURES IN ILLINOIS WIC RETAIL VENDOR ADMINISTRATIVE HEARINGS

- Section  
 672-600 Hearings  
 672-605 Parties to Hearings (Repealed)  
 672-610 Appearance and Representation of a Party  
 672-615 Commencement of an Action (Repealed)  
 672-620 Notice of Hearing (Repealed)  
 672-625 Discovery (Repealed)  
 672-630 Form of Papers (Repealed)  
 672-635 Service (Repealed)  
 672-640 Pre-Hearing Conferences (Repealed)  
 672-645 Conduct of Hearings (Repealed)  
 672-650 Subpoenas (Repealed)  
 672-655 Burden of Proof (Repealed)  
 672-660 Administrative Law Judge's Report and Final Decision (Repealed)  
 672-665 Records of Proceedings (Repealed)  
 672-670 Miscellaneous (Repealed)

## APPENDIX A Illinois Regional Map

AUTHORITY: Implementing and authorized by the WIC Vendor Management Act [410 ILCS 255].

SOURCE: Adopted at 14 Ill. Reg. 19984, effective December 1, 1990; amended at 16 Ill. Reg. 7734, effective December 15, 1992; amended at 18 Ill. Reg. 2450, effective February 1, 1994; amended at 19 Ill. Reg. 13125, effective August 12, 1994, for a maximum of 90 days; amended at 19 Ill. Reg. 606, effective January 9, 1995; amended at 19 Ill. Reg. 16086, effective November 20, 1995; amended at 21 Ill. Reg. 3960, effective \_\_\_\_\_.

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## SUBPART A: GENERAL PROVISIONS

## Section 672-100 Definitions

"Act" means the WIC Vendor Management Act [410 ILCS 255].

"Administrative Law Judge" means any person appointed by the Director to preside at an Administrative Hearing.

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"Administrative Warning" means a written notice which describes the nature of a violation to the WIC Program and a request for correction of the violation.

"Applicant" means the individual, partnership, limited partnership, unincorporated association, limited liability company, or corporation applying to be a WIC Retail Vendor.

"Applicant's Composite Food Package Cost" means an amount determined by first multiplying the quantity of each WIC Food item in the Composite Market Basket times the Applicant's lowest shelf price for each item as determined during the Retail Vendor Price Survey. These totals are then added together to determine the cost of all items in the Composite Market Basket. In determining the lowest shelf price for juice, cheese and cereal, the Department will use the average of the lowest shelf prices of the two varieties which the Department has determined are the most frequently received varieties of that WIC Food item. The Applicant must apply to the Department to have the most frequently received varieties of that WIC Food item. The Department will base the one or two varieties with the lowest shelf price. In determining the lowest shelf price for infant formula, the Department will use a weighted average of the lowest shelf prices for the WIC approved brands, taking into account the percentage of each brand used by WIC Participants.

"Application" means the application forms and other required materials submitted by a Business Entity to notify the Department that the Business Entity desires to become a WIC Retail Vendor.

"Authorization" means the approval of an Applicant who has met the WIC Vendor criteria and possesses a properly executed, valid WIC Vendor Contract as a WIC Retail Vendor.

"Business Entity" means the retail business which an Applicant or authorized WIC Vendor operates at a particular Vendor Site.

"Composite Market Basket" means those quantities of WIC Food items received by a statistically average WIC Participant over a one month period.

"Contested Case" shall have the meaning ascribed it in Section 1-30 of the Illinois Administrative Procedure Act [5 ILCS 100/1-30].

"Corporate Officer" means the identity of the officer of a Corporation as set forth in its Articles of Incorporation as filed with the Secretary of State wherein such entity is incorporated.

"CSFP" means the Commodity Supplemental Food Program which is a Federal food assistance program through which the Department or its

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Representative provide U.S. Government commodities to low-income women, infants and children and eligible elderly.

"Department" means the *Illinois Department of Public Health*. (Section 3(a) of the Act)

"Department Estimated Cost" means estimated prices based on indicators including wholesale prices for WIC Foods and the self reported Vendor prices on the Vendor Retail Price Survey, which are averaged and weighted by Store Type and Region.

"Department Representative" or "Representative of the Department" means an employee or authorized agent of the Department.

"Director" means the Director of the Illinois Department of Public Health or designee.

"Expired Food" means a WIC Food item available to WIC Participants on a store shelf which exceeds the stamped date printed on the food item and labeled as one of the following: expiration date, "Sell By" date, "Best If Used By" date, or "Best When Purchased By" date, printed on the item.

"Food Instrument" or "FI" means a negotiable voucher issued by a Local Agency that specifies the quantity, size and type of authorized foods available to a WIC Participant within a designated time period, which can subsequently be taken to a Vendor in exchange for the specified quantities of food.

"Food Voucher" means Food Instrument.

"Grocery Store" means a fixed and permanent retail store whose primary business is the sale of food.

"IADN" means the Illinois Administrative Procedure Act [5 ICs 100].

"Illinois WIC Retail Food Delivery System" means the system in which Participants obtain WIC foods by submitting a Food Voucher to a WIC Retail Vendor.

"Invalid Vendor" is a rejection label which means a Food Instrument deposited or mailed by a Vendor which has been encoded and rejected by the Department's contract bank for the following reasons: the Food Instrument has not been stamped with the Vendor Number, the Vendor Number is unauthorized, unreadable, not in the space indicated, or a counterfeit Vendor Stamp is used. Typed or handwritten numbers shall not be accepted.

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"Limited Liability Company" means a company organized and existing under the *Limited Liability Company Act 1805 ILCS 1801*.

"Local Agency" means a public or private, non-profit health or human services agency which provides health services, either directly or through contract, in accordance with the USDA WIC Regulations, the Act, or this Part.

"Minimum Supply of WIC Foods" means the Department published list of the minimum required quantities, sizes, and types of WIC Foods which must be maintained in stock at all times by a Vendor.

"Participant" means authorized pregnant women, breastfeeding women, postpartum women, infants or children who are receiving supplemental foods or Food Instruments under the WIC Program.

"Participant Requested Delivery" means a Participant requested delivery of WIC approved foods from a Vendor to an address specified by the WIC Participant or Proxy.

"Participant/Vendor Ratio" means the total number of WIC Participants redeeming Food Instruments through WIC Retail Vendors in a given region divided by the total number of WIC Retail Vendors in the same region.

"Pharmacy" means any store, shop, department, or other place, at a fixed and permanent location, having the capability to dispense and sell or offer for sale at retail value by a licensed pharmacist drugs, medicines, poisons, and liquid foods, prescribed for an individual by dentists, veterinarians, and physicians licensed to practice medicine in all its branches.

"Posted Shelf Price" means the clearly displayed price of WIC Foods charged to the general public, identifying the price of the specific WIC Food item. When no price is posted, the Posted Shelf Price shall be deemed to be the average price for a particular food item based on the Retail Vendor Price Survey for stores of like size and location.

"Proxy" means a person who is authorized by the Local Agency and the WIC Participant to accept and/or redeem Food Instruments on a participant's behalf.

"Region" means a geographic area in the State of Illinois which is identified by specific boundaries determined by the Department. (See Section 672-Appendix A.)

"Regional Average Composite Food Package Cost" means an amount determined by first multiplying the quantity of each WIC Food item in



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the Composite Market Basket times the average regional shelf price for that item as derived from the Retail Vendor Price Survey, for a total which is then divided by the number of items in the Composite Market Basket. "Weighted Totals" are the items added together to determine the regional average cost of all items in the Composite Market Basket.

"Retail Vendor Price Survey" means the current prices, reported to the Department, by a Vendor or a Department Representative, as charges for WIC Foods.

"Store Type" means the classification of WIC Retail Vendors by the number of active customer check-out lanes/cash registers. One or two lanes is a type 1 Vendor Site. Three or four lanes is a type 2 Vendor Site. Five to seven lanes is type 3 Vendor Site. Eight or more lanes is a type 4 Vendor Site. A Pharmacy is a type 5 Vendor Site and a WIC Food Center is a type 6 Vendor Site.

"USDA" means the United States Department of Agriculture.

"USDA WIC Regulations" means the Regulations of the United States Department of Agriculture, Food and Consumer Service, Special Supplemental Nutrition Program for Women, Infants, and Children (7 CFR 246 (1990)).

"Valid WIC Retail Vendor Contract" means a contract that is binding only between the Department and the officer, partner or sole proprietor who originally signed the Vendor Application and Vendor Contract.

"Vendor" or "WIC Retail Vendor" means the individual, partnership, limited partnership, unincorporated association, limited liability company, or corporation authorized by the Department to accept Food Instruments and to provide supplemental food to WIC Participants, Proxies of WIC Participants or Department Representatives.

"Vendor Number" means the number assigned to an authorized Vendor by the Department for validating Food Instruments.

"Vendor Site" means a fixed and permanent location, operating as a Business Entity, listed in the WIC Vendor Application, which has been authorized by the Department for purposes of delivery of WIC Foods to WIC Participants or the Proxy of a WIC Participant.

"Vendor Stamp" means the stamp provided to a Vendor by the Department for validating Food Instruments.

"Violation" means an infringement of Federal or State rules or statutes or local laws.

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"WIC Food Centers" are WIC food distribution sites through which the Department or its Representative provide the direct distribution of WIC foods.

"WIC Food List" means the published list of the State of Illinois authorized WIC Foods.

"WIC Foods" means those competitively priced foods which have been placed on the WIC Food List, which have been determined by the Department to be nutritionally qualified for the WIC Program in the State of Illinois.

"WIC Participant Identification Card" means the card issued by a Local Agency to a Participant for purposes of the WIC Program.

"WIC Vendor Contract" means an agreement signed by the WIC Retail Vendor and the Department for the provision of WIC Foods to Participants, the Proxies of WIC Participants or Department Representatives.

"Women Infants and Children Nutrition Program" and "WIC" mean the Federal Special Supplemental Nutrition Program for Women Infants and Children authorized by Section 17 of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1786). (Section 3(a) of the Act)

(Source: Amended at 21 Ill. Reg. 3968, effective 11/1/91)

## SUPPORT B: WIC VENDOR APPLICATION AND AUTHORIZATION PROCESS

## Section 672.200 Geographic Distribution and Number of Vendors

Prior to offering an application to a potential Applicant vendor, the Department shall utilize Participant/Vendor Ratios and shall consider Participant needs within geographical locations to determine if the Applicant meets the Regional Participant/Vendor Ratio for the geographic region. The Participant/Vendor Ratio shall be calculated for the geographic region within the State of Illinois (see Appendix A) to determine the Regional Participant/Vendor Ratios for each of the nine regions within Illinois shall be:

- Regions one (1) through six (6) shall be greater than 40, but shall be less than 60. Regions seven (7) and eight (8) shall be greater than 100, but shall be less than 160. Region nine (9) shall be greater than 75, but less than 175. Upon the effective date of this Act, region nine (9) shall be greater than 145, but less than 175.
- With the exception of a Pharmacy, if an Applicant applies for WIC Authorization in a region which has more vendors than the minimum number of vendors and fewer vendors than the maximum number of vendors

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allowed in the region, the Applicant shall not be authorized unless the Applicant agrees to charge the Department a maximum of ninety-five percent (95%) or less of the maximum value of the Food Instrument(s) of the lowest shelf price for MIC food items, whichever is less, and agreed that this ninety-five percent (95%) shall not be more than two (2) months during the contract period of Authorization. Vendors authorized under this provision whose charges to the Department exceed ninety-five (95%) of the maximum value of the Food Instrument(s) or the lowest shelf price for MIC food items, whichever is less, shall be placed on probation for the duration of their contract period. In addition, such Vendors shall reimburse the Department for the difference between the amount received and ninety-five percent (95%) or less of the maximum value of the Food Instrument(s) or the lowest shelf price for MIC food items, whichever is less. If the Vendors do not pay this reimbursement within thirty (30) calendar days from the date they are notified, they shall be subject to violations specified in Section 672.505(a).

c) If a region has the minimum number of vendors (see Section 672.200(a)), an Application application shall not be offered to a potential Applicant vendor at a Vendor Site where, during the previous three years (399 years), a Vendor has been terminated or has consented to withdraw in lieu of termination.

d) If a region has exceeded the maximum number of vendors (see Section 672.200(a)), an Application shall not be offered.

(Source: Amended at 21 Ill. Reg. 3969, effective 12/1/11)

Section 672.205 Application Procedures

The Department shall provide an Application for applying to become an authorized MIC Retail Vendor. Submission of a completed Application shall constitute Authorization to an Applicant to accept or receive payment for Food Instruments. Any Application submitted improperly or incompletely shall be returned to the Applicant. Any Application not completed and returned to the Department within ninety (90) calendar days from receipt by the Applicant shall not be processed. An Applicant can apply for Authorization to become a MIC Retail Vendor by submitting the following to the Department:

- a) An Application for MIC Vendor Authorization as a sole proprietorship shall include the following:
  - 1) identity, address, and date of birth of owner;
  - 2) the Federal Employer Identification Number (FEIN) of the Business
- 3) Certification of any ownership interest of thirty-percent (30%) or more by any other entity applying for MIC Vendor Authorization or MIC Vendor;
- 4) identification of the Business Entity, the Store Type, location of the proposed Vendor Site and an employee contact for MIC

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purposes:

- 5) proof of the owner's identity;
  - 6) proof of the business entity's FEIN;
  - 7) proof of USDA Food Stamp Authorization, if applicable; and
  - 8) identification of any person holding elective office as specified in Section 672.210(a)(7) and Section 11.1 of the Illinois Purchasing Act (413 Rev-Stat-1997-Rev-137-par-132-11-1) (30 ICS 505/11.1) and the elective office held.
- b) An Application for MIC Vendor Authorization as a corporation shall include the following:
- 1) identity and location of the corporation's principal place of business;
  - 2) identity and address of the corporation's registered agent;
  - 3) FEIN of the corporation;
  - 4) identification, address and date of birth of any individual with an ownership interest of thirty-percent (30%) or more by the stockholders and such an ownership interest by these stockholders in any other entity applying for MIC Vendor Authorization or MIC Vendor;
  - 5) identification of the Business Entity, the Store Type, location of the proposed Vendor Site and an employee contact for MIC purposes;
  - 6) Certification of Incorporation from the State in which the Applicant is incorporated;
  - 7) identification, address and date of birth of each Corporate Officer;
  - 8) proof of identity for each Corporate Officer;
  - 9) proof of corporation's FEIN;
  - 10) proof of USDA Food Stamp Authorization, if applicable; and
  - 11) identification of any person holding elective office as specified in Section 672.210(a)(7) and Section 11.1 under the Illinois Purchasing Act (413 Rev-Stat-1997-Rev-137-par-132-11-1) (30 ICS 505/11.1) and the elective office held.
- c) An Application for MIC Vendor Authorization as a partnership or limited partnership shall include the following:
- 1) identity and address of each limited and general partner and the registered agent;
  - 2) ownership percentages of each limited and general partner;
  - 3) FEIN of the partnership or limited partnership;
  - 4) identification of an ownership interest of thirty-percent (30%) or more by the partners listed in subsection (c)(1) above and such an ownership interest by these partners in any other entity applying for MIC Vendor Authorization or MIC Vendor;
  - 5) identification of the Business Entity, the Store Type, location of the proposed Vendor Site and an employee contact for MIC purposes;
  - 6) proof of identity of each limited and general partner and date of birth;

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- 7) proof of the partnership or limited partnership FEIN;  
 8) proof of USDA Food Stamp Authorization, if applicable;  
 9) if a limited partnership, it must provide a Certificate of Existence issued by the Illinois Secretary of State; and  
 10) identification of any person holding elective office as specified in Section 672.210(a)(7) and Section 11.1 under the Illinois Purchasing Act (435-Rev-Stat-1991-ch-127-par-132-23-4) [30 ILCS 505/11.1] and the elective office held.

d) An Application for WIC Vendor Authorization as a Limited Liability Company shall include the following:

- 1) Name of business;
- 2) Identification and address of the Limited Liability Company's principal officer;
- 3) FEIN of the Limited Liability Company;
- 4) Identification, address and date of birth of any individual with ownership interest of 30% or more by limited liability managers and such an ownership interest by these managers in any other entity applying for WIC Vendor Authorization or WIC Vendor;
- 5) Identification of the Business Entity, the Store Type, location of the proposed Vendor Site and an employee contact for WIC purposes;
- 6) Proof of Organization (out of state limited liability companies);
- 7) Proof of identity and date of birth for each limited liability manager;
- 8) Proof of the limited liability company's FEIN;
- 9) Proof of USDA Food Stamp Authorization, if applicable; and
- 10) Identification of any person holding elective office as specified in Section 672.210(a)(7) and Section 11.1 under the Illinois Purchasing Act (30 ILCS 505/11.1) and the elective office held.

g) Each owner, partner, limited partner, or shareholder of five-percent or more of the stock must also provide a statement concerning any conviction for a misdemeanor involving fraud, theft, or misuse of state or federal funds or any felony.

h) Each Applicant or authorized representative shall attest to the accuracy of information provided in the Application.

i) The Applicant shall have an obligation to notify the Department in writing, by Certified Mail, of material changes in information contained on the Application after Authorization and during the term of the WIC Vendor Authorization.

j) Proof of FEIN shall include a copy of a notice of new employer identification number assigned or a copy of the Federal Tax Deposit Coupon.

k) Proof of identity shall include a copy of the Applicant's driver's license or an identification card issued by the Illinois Secretary of State.

l) If applicable, proof of USDA Food Stamp Authorization shall include a copy of the Federal Food Stamp Program Authorization/Retailer Card.

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k) The Applicant shall provide documents which verify the date of purchase or acquisition of the Business Entity for which the Applicant is seeking WIC Vendor Authorization.

l) Each Applicant shall attest to compliance with necessary local, municipal, or village licensing requirements/licenses at the proposed Vendor Site.

(Source: Amended at 21 Ill. Reg. 3960, effective PAR 1-1-11)

## SUBPART D: WIC VENDOR AUTHORIZATION AND RESPONSIBILITIES

## Section 672.450 Assignment or Transfer

a) The Vendor shall not sell, assign, or transfer in any manner its Authorization, the WIC Vendor Contract, WIC Vendor Stamp, or WIC Vendor Number. Any actual or attempted sale, assignment or transfer of the Authorization, WIC Vendor Contract, WIC Vendor Stamp, or WIC Vendor Number shall be a material breach of the WIC Vendor Contract.

b) It shall also be a material breach of the WIC Vendor Contract if any unauthorized individual, corporation, partnership, limited partnership, unincorporated association, Limited Liability Company or former Vendor vendor improperly acquires WIC Authorization after the death of a Vendor (if an individual) or the voluntary or involuntary dissolution of a Vendor corporation, partnership, limited partnership, unincorporated association, Limited Liability Company, or firm, and shall subject the Vendor to termination of its Authorization and a fine assessment in accordance with Sections 672.510, 672.515 and 672.520 of this Part. In addition, any assignee, transferee, buyer, or recipient of a Vendor's authorization, WIC Vendor Contract, WIC Vendor Stamp, or WIC Vendor Number shall be in violation of this Part and shall be subject to the sanctions set forth in Section 672.510(c) of this Part.

c) At least fifteen-15 calendar days in advance, the Vendor shall notify the Department of any scheduled sale, lease, bankruptcy or cessation of the Vendor's Business Entity, or of any sale of a majority interest in the Vendor's Corporation, partnership, sole proprietorship, or Business Entity. Such notification shall be sent by certified mail and in writing to the place and address listed in the WIC Vendor Contract, Section XVI Notices.

(Source: Amended at 21 Ill. Reg. 3960, effective PAR 1-1-11)

## SUBPART E: WIC VENDOR COMPLIANCE AND SANCTIONS

## Section 672.505 Violations

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Violations shall be classified as either Class A Violations, Class B Violations, or Class C Violations. Each Class of Violation is listed below.

## a) Class A Violations:

- 1) Imposition of any of the following sanctions by the USDA Food Stamp Program:

- A) civil money penalty
- B) suspension
- C) disqualification
- D) permanent disqualification.
- 2) Exchanging cash for food instrument(s).
- 3) Exchanging non-food items for food instrument(s).
- 4) Charging more than the minimum required quantity, size and type for WIC Foods, except for WIC Child Care.
- 5) Charging the WIC Program for WIC Foods not received by the Participant, Proxy or Department Representative.
- 6) Claiming reimbursement for the sale of any amount of WIC Food which exceeds the store's documented inventory of that food for a specified period of time.
- 7) Submitting false, erroneous or inaccurate information on the application or WIC Retail Vendor Contract.
- 8) Exchanging credit for WIC Food Instrument(s).
- 9) Exchanging alcohol for WIC Food Instrument(s).
- 10) Receiving WIC Food Instrument(s) from any source other than a Participant, a Proxy or a Representative of the Department.
- 11) Transacting WIC Food Instrument(s) from any source other than a Participant, a Proxy or a Representative of the Department.
- 12) Redeeming WIC Food Instrument(s) which have been received from any source other than a Participant, a Proxy or a Representative of the Department.
- 13) Charging WIC Participants, Proxies or Department Representatives more than the posted shelf price for WIC food items.
- 14) Charging less than the minimum required quantity, size and type for WIC Foods than the WIC Food Instrument(s).
- 15) Failure to maintain the minimum required quantity, size and type of foods in at least three (3) WIC Foods as identified in the Minimum Supply of WIC Foods and specified in the WIC Vendor Contract. (See definition of "Minimum Supply of WIC Foods" in Section 672.100.)
- 16) Submission of false, erroneous or inaccurate information in the business or financial information provided to the Department on the Retail Vendor Price Survey, or during the course of inspections of the Vendor Site.
- 17) Refusing to allow the Department access to inspect the Vendor Site during normal business hours.
- 18) Submission of a Federal Employers Identification Number (FEIN) for the Business Entity operating as a Vendor which differs from the FEIN filed for the same Business Entity with the USDA Food Stamp Program or with the Illinois Department of Revenue.

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- 19) Failure to fulfill the terms of the WIC Vendor Contract.
- 20) The sale, lease, assignment, transfer or discontinuation of the Business Entity or moving the Business Entity to a new location or new address without notice to, and approval of, the Department.
- 21) Use of WIC Authorization by any unauthorized individual, corporation, partnership, limited partnership, unincorporated association, Limited Liability Company or former Vendor who has improperly acquired WIC Authorization after the death of a Vendor (if an individual) or the voluntary or involuntary dissolution of a Vendor corporation, partnership, limited partnership, Limited Liability Company and unincorporated association.
- 22) Failure to pay the Department the amount of any reimbursement due pursuant to Section 672.100(b).
- b) Classification:
  - 1) Substitution of unauthorized foods not specified on the Food Instrument or WIC Food List.
  - 2) Failure to maintain the minimum required quantity, size and type of WIC Infant formula feeder, as identified in the Minimum Supply of WIC Foods and specified in the WIC Vendor Contract, but only if this failure is for two (2) or fewer WIC Foods excluding infant formula. (See the definition of "Minimum Supply of WIC Foods" in Section 672.100.)
  - 3) Requiring a Participant to select a different type or brand of WIC Foods when not specified on the Food Instrument.
  - 4) Altering or submitting for payment altered Food Instruments.
  - 5) Accepting any remuneration for the difference between the maximum value of the Food Instrument and the shelf price of the WIC Foods.
  - 6) Having any expired WIC Food(s) on the shelf. (See Section 672.100 "Expired Food".)
  - 7) Refusing to allow Participants, Proxies or Department Representatives to take all food items listed on the Food Instrument.
  - 8) Not posting the shelf price for WIC Foods. If no price is posted then the purpose of this Section is to protect the price of the food. The shelf price for a particular food shall be based on the Retail Vendor Price Survey performed pursuant to this Part, for stores of like size and location.
  - 9) The possession, the display on the shelf in the Vendor site, the attempted sale or actual sale of food products which originated from the WIC Food Centers or the Commodity Supplemental Food Program (CSFP).
  - 10) Acceptance of WIC Food Instrument(s) that is signed by a Participant, a Proxy or a Department Representative before the total actual cost is filled in by the Vendor.
- c) Class C Violations:
  - 1) Exchanging cash or credit for Food Instruments without a valid

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(Source: Amended at 21 Ill. Reg. 3960, effective 3-1-80)

- WIC Retail Vendor Contract.
- 2) Exchanging alcoholic beverages, food or non-food items for WIC Food Instruments without a valid WIC Retail Vendor Contract.
  - 3) Exchanging WIC Food Instruments for cash, credit or favors without a valid WIC Retail Contract.

## Section 672.510 WIC Vendor Sanctions

- a) Any Class A Violation shall subject a Vendor to the following sanctions:
  - 1) Reimbursement from the WIC Program for a period of three years; and
  - 2) A fine assessment of \$1,500-99; and
  - 3) Reimbursement to the Department for any overcharges, charges for items not received, monies paid for products not authorized as WIC Foods, and monies paid for Food Instruments accepted without a valid contract.
- b) Any Class B Violation shall subject a Vendor to the following sanctions:
  - 1) A fine assessment of \$750-99; and
  - 2) Certification that situation giving rise to the violation has been corrected.
- c) Any Class C Violation shall subject the violator to the following sanctions:
  - 1) A fine assessment of \$2,500-99 per violation; and
  - 2) Reimbursement to the Department for the "Actual Dollar(s) Amount of Sale" indicated on Food Instruments submitted to the Department's contract bank, or the total amount which is credited or paid by the Department's contract bank to the former Vendor, individual, business entity, or commercial enterprise; and
  - 3) Any individual who held any ownership interest in the violator shall be prohibited from applying to become an authorized WIC Retail Vendor for a period of three (3) years.

- d) The total fine assessed in any one (1) notice of fine assessment shall not exceed \$67,999-99, regardless of the number and class of violations alleged against a Vendor.
- e) All fine assessments shall be paid within thirty (30) calendar days from date of final order by cashier certified check or money order in United States currency. If the fine assessment is not received by the Department within thirty (30) calendar days from the date of the final order, any collection fees and any other costs associated with the collection of the fine assessment shall be paid in addition to the fine.

(Source: Amended at 21 Ill. Reg. 3960, effective 3-1-80)

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## SUBPART F: RULES OF PRACTICE AND PROCEDURES IN ILLINOIS WIC RETAIL VENDOR ADMINISTRATIVE HEARINGS

## Section 672.610 Appearance and Representation of a Party

The provisions of Section 100.4 of the Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100) shall not apply to proceedings under this Part, but shall be replaced by the following provisions:

- a) A Party may be represented by an attorney who is licensed in Illinois. Attorneys who appear in a representative capacity must file a written notice of appearance setting forth:
  - 1) the name, address and telephone number of the attorney;
  - 2) the name and address of the party represented; and
  - 3) an affirmative statement indicating that the attorney is licensed to practice law in Illinois.
- b) An attorney, licensed to practice law, may withdraw from employment as a representative only upon written notice to the Department stating the reasons for withdrawal and consistent with the Code of Civil Procedure (441-Rev-Stat-1993--chv--1189--par--1-4047) [735 ILCS 5/1-101]. Such withdrawal shall require an appropriate ruling by the Administrative Law Judge.

- c) A sole proprietor who is authorized as a WIC Retail Vendor or former Vendor, or any person or entity engaged in the activity of a WIC Vendor, shall appear at such hearing on behalf of the Vendor.
- d) A corporation, association which is authorized as a WIC Retail Vendor or was authorized as a former Vendor, or any person or entity engaged in the activity of a WIC Vendor shall appear and be heard only by an attorney or limited partnership authorized as a WIC Retail Vendor.
- e) A partnership or limited partnership authorized as a WIC Retail Vendor or that was authorized as a former Vendor, or any person or entity engaged in the activity of a WIC Vendor may appear and be heard by a partner, upon presentation to the Department of written authorization from all partners authorizing him to act in a representative capacity.
- f) A Limited Liability Company authorized as a WIC Retail Vendor or that was authorized as a former Vendor, or any persons or entity engaged in the activity of a WIC Vendor, shall appear and be heard only by an attorney licensed to practice in the State of Illinois.
- g) Special appearances are not recognized. The initial appearance regardless of form is deemed a general appearance.
- h) Each party to a proceeding who appears before the Department either in person or by counsel, shall inform the Department in writing or upon the record of the address at which any notice or other document may be served upon him or her in such proceeding. All further service may be made by regular mail unless otherwise provided by statute or rule. Service shall be presumed to be completed in the record.
- i) Attorneys appearing before the Department shall conform their conduct

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to the Illinois Code of Professional Responsibility, effective December, 1989, and as amended. Any failure to behave in a manner which permits the efficient functioning of the hearing will authorize the Administrative Law Judge to take the following actions:

- 1) limitation of evidence;
- 2) substitution of written argument in place of oral argument; or
- 3) exclusion of an attorney from the proceeding.

(Source: Amended at 21 Ill. Reg. 3960, effective \_\_\_\_\_)

## DEPARTMENT OF REVENUE

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1) Heading of the Part: Charitable Games Act

2) Code Citation: 86 Ill. Adm. Code 435

3) Section Numbers: Adopted Action:

- |         |           |
|---------|-----------|
| 435.100 | Amendment |
| 435.110 | Amendment |
| 435.120 | Amendment |
| 435.130 | Amendment |
| 435.140 | Amendment |
| 435.150 | Amendment |
| 435.160 | Amendment |
| 435.170 | Amendment |
| 435.180 | Amendment |
| 435.190 | Amendment |
| 435.200 | Amendment |
| 435.210 | Amendment |

4) Statutory Authority: 230 ILCS 30

5) Effective Date of Amendment(s): March 14, 1997

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: March 14, 1997

9) Notice of Proposal Published in Illinois Register:

November 1, 1996, 20 Ill. Reg. 14131

10) Has JCPR issued a Statement of Objections to these Amendments? No

11) Differences between proposal and final version: See attachment.

12) Have all the changes aired upon by the agency and JCPR been made as indicated in the agreement letter issued by JCPR? Yes

13) Will this amendment replace an emergency amendment currently in effect?  
No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendment(s): This rulemaking amends the Charitable Games Act to make various changes to the following areas: definitions, charitable games licenses, suppliers' licenses, providers' licenses, operation of charitable games events and restrictions and limitations on the conducting of charitable games.



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- 16) Information and questions regarding this adopted amendment shall be directed to:

Gina Roccaforte  
Associate Counsel  
Illinois Department of Revenue  
Legal Services Office  
101 West Jefferson  
Springfield, Illinois 62794  
Phone: (217) 782-6996

The full text of the Adopted Amendment begins on the next page:

## DEPARTMENT OF REVENUE

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TITLE 86: REVENUE  
CHAPTER I: DEPARTMENT OF REVENUE

PART 435  
CHARITABLE GAMES ACT

Section	Introduction
435-100	Definitions
435-110	Charitable Games Licenses
435-120	Supplier's Licenses
435-130	Provider's Licenses
435-140	Ineligibility for License
435-150	Operation of Charitable Games Events
435-160	Restrictions and Limitations on the Conducting of Charitable Games
435-170	Imposition of Tax, Returns
435-180	Records; Audits
435-190	Renal, Suspension, or Revocation of Licenses
435-200	Criminal and Civil Penalties
435-210	State-Local Relations
435-220	

AUTHORITY: Implementing and authorized by the Charitable Games Act [230 ILCS 301.30].

SOURCE: Emergency Rule adopted at 10 Ill. Reg. 15687, effective September 15, 1986, for a maximum of 150 days; adopted at 11 Ill. Reg. 3722, effective February 10, 1987; permanent amendments at 11 Ill. Reg. 10702, effective May 26, 1987; amended at 15 Ill. Reg. 10966, effective July 10, 1991; amended at 16 Ill. Reg. 14702, effective September 14, 1992; amended at 18 Ill. Reg. 11629, effective July 7, 1994; amended at 21 Ill. Reg. 3476, effective July 7, 1994.

## Section 435-100 Introduction

This Part implements the Charitable Games Act [230 ILCS 301.30] (the "Act"), which was adopted by the General Assembly to allow non-profit charitable, fraternal, religious, educational, and other organizations to raise funds by conducting casino-type gaming events. Other forms of licensed charitable gaming, such as bingo and raffles, may be played during an event. Licenses for these activities, however, must be obtained from the Department, while raffle licenses must be obtained from the county or municipal government responsible for licensing. See the Raffles Act [230 ILCS 15]. Pull-tabs and jar games are also legal for play by non-profit licensees. For persons familiar with the rules governing those activities, some of the following charitable games rules are more restrictive than the bingo and raffle rules. The reason is that the charitable games events authorized by the Act are, to a much greater extent



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chips or scrip used in the conducting of charitable games), or services before the event, including, but not limited to, training for volunteers or advertising. "Consultant companies" include, for instance, "party planners" who plan an event for a licensee by locating and securing qualified suppliers and providers on behalf of the licensee, or who assist a licensee in planning a hosted casino night which is not open to the public (e.g., an event open to only a corporation and its clients which is hosted by the licensee and in return for which a donation is made to the licensee).

"Currency": Coin, checks, marketable securities, or any other similar item that can be readily redeemed or converted into legal tender.

"Department": The Illinois Department of Revenue, Office of Bingo and Charitable Games, P.O. Box 19480, Springfield, Illinois 62794.

"License Year": The year beginning on the date a license is issued under the Act, which date is stated on the license.

"Licensee": An organization holding a license to conduct charitable games events or a person licensed under the Act as a supplier or provider.

"Organization": a corporation, agency, partnership, institution, association, firm or other entity consisting of two or more persons joined by a common interest or purpose (Section 2 of the Act).

"Person": means any natural individual, a corporation, a partnership, a limited liability company, an organization as defined in this Section, a qualified organization, a nonqualifying organization, any other licensee under the Act, or a volunteer.

"Qualified organization": means a charitable, religious, fraternal, veterans, labor or educational organization or institution organized and conducted on a not-for-profit basis with no personal profit inuring to anyone as a result of the operation and that is exempt from federal income taxation under Section 501(c)(3), (c)(4), (c)(5), (c)(18), (c)(19) or (c)(25) of the Internal Revenue Code; a veterans organization as defined in Section 1 of the Bingo License and Tax Act (230 ILCS 25), organized and conducted on a not-for-profit basis with no personal profit inuring to anyone as a result of the operation; an auxiliary organization of a veterans organization; or a local fraternal mutual benefit organization chartered at least 40 years before it applies for a license.

"Received by the Department" or similar phrases: Whenever this Part requires that any writing or any payment must be received within a specified number of days or by a specified date, the provisions of

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Section 1.25 of the Statute on Statutes (5 ILCS 70) "AN ACT to revise the law in relation to the construction of the Statutes" (Ill. Rev. Stat. 1969, ch. 7, par. 1026) shall apply.

"Sponsor organization": means a qualified organization that has obtained a license to conduct a charitable games event in conformance with the provisions of the Act.

"Volunteer": means a person recruited by the sponsoring organization who voluntarily performs services at a charitable games event, including participation in the management or operation of a game under Section 435.170(b).

(Source: Amended at 21 Ill. Reg. 3070, effective 10/1/1979.)

## Section 435.120 Charitable Games Licenses

a) Eligibility. To be eligible for a charitable games license, an applying organization must have been organized in Illinois and must satisfy each of the following conditions of eligibility:

- 1) The organization must be a charitable, religious, fraternal, veterans, labor, or educational organization or institution organized and conducted on a not-for-profit basis with no personal profit inuring to anyone as a result of the operation and which is exempt from federal income taxation under Section 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code, a veterans' organization as defined in the Bingo License and Tax Act (230 ILCS 25), or an auxiliary of a veteran's organization (Section 2 of the Act), or a local fraternal mutual benefit organization chartered at least 40 years before it applies for a license.

A) For an organization to be considered charitable for purposes of obtaining a charitable games license, its activities must benefit a charitable purpose of persons, it must have no capital, capital stock, or shareholders; its funds must be derived mainly from private and public charity and be held in trust for the objects and purposes expressed in its charter; it must dispense charity to all who need and apply for it; and it must place no obstacles in the way of those seeking the benefits.

B) For an organization to be considered educational for purposes of obtaining a charitable games license, it must be organized and operated to provide systematic instruction in useful branches of learning by methods common to schools and institutions of learning which compare favorably in their scope and intensity with the course of study presented in tax-supported schools.

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- C) For an organization to be considered religious for purposes of obtaining a charitable games license, it must be a church, congregation, society, or organization founded for the purpose of religious worship.
- D) For an organization to be considered fraternal for purposes of obtaining a charitable games license, it must be a civic, fraternal, or service organization, not for pecuniary profit, which has a branch, lodge or chapter of a national or State organization, exists for the common business, brotherhood, or other interests of its members. This does not include a college or high school fraternal organization.
- E) For an organization to be considered labor for purposes of obtaining a charitable games license, it must be composed of labor unions or workers organized with the objective of betterment of the conditions of those engaged in such pursuit and the development of a higher degree of efficiency in their respective occupations.
- F) For an organization to be considered a veteran's organization for purposes of obtaining a charitable games license, it must be comprised of members of which substantially all are individuals who are veterans or spouses, widows or widowers of veterans, the primary purpose of which is to promote the welfare of its members and to provide assistance to the general public in such a way as to confer a public benefit.
- 2) The organization must have had a bona fide membership engaged in carrying out its objects for at least the entire five-year period immediately preceding application (Section 3 of the Act). However, this five-year requirement shall not apply with regard to the following two types of organizations:
- A) An organization which has a bona fide membership engaged in carrying out its objectives for at least the entire two-year period immediately preceding application, and which is affiliated with and chartered by a national organization which meets the five-year requirement (Section 3 of the Act).
- B) A charitable organization created by a fraternal organization which meets the five-year requirement, and which has the same officers and directors as the fraternal organization. "Fraternal Organization" means a civic, service or charitable organization in Illinois, except a college or high school fraternity or sorority, not for pecuniary profit, which is a branch, lodge or chapter of a national or Illinois organization and exists for the common business, brotherhood, or other interest of its members (Section 3 of the Act).
- 3) Auxiliary organizations of a licensee shall not be eligible for a license to conduct charitable games, except for auxiliary

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- organizations of veterans organizations (Section 4 of the Act). An "auxiliary organization" is one which exists to assist or support an affiliated organization.
- b) Applications. Application for a charitable games license must be filed by the prospective licensee or its duly authorized representative only be made on the forms prescribed by the Department, and must be accompanied by a license fee of \$200 in the form of a certified check or money order payable to the Illinois Department of Revenue. A duly authorized representative is a person who has filed a power of attorney with the Department. Information requested of an applicant shall include, but not be limited to name, mailing address, occupation and address, and information regarding the organization's officers and directors. Information regarding the organization's applications which are not complete or which are not accompanied by the information described below. Each license must be applied for at least 30 days prior to the event at which the licensee wishes to conduct such games (Section 3 of the Act). Any willful misstatements contained in an application constitute perjury (Section 4 of the Act). An organization applying for a charitable games license must submit the following information in addition to the completed application form:
- 1) Documentary evidence sufficient to show that the organization meets the eligibility requirements of subsection (a) above. Such documentation must include, when applicable, a copy of the organization's by-laws, constitution, charter, minutes of past meetings, promotional materials, and Articles of Incorporation;
  - 2) A copy of the letter or any other document issued to the organization by the Internal Revenue Service showing that the organization is currently exempt from federal income taxation under Section 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(8), 501(c)(10) or 501(c)(19) of the Internal Revenue Code;
  - 3) Information, on the form for that purpose, supplied by the applicant or on behalf of the applicant, regarding the organization concerning all of the members, volunteers and employees of the organization who will participate in the management or operation of the charitable games events to be conducted under the license. This information shall include the names, addresses, social security numbers, and dates of birth of all persons who will participate in the management or operation of the games, along with a sworn statement made under penalties of perjury, signed by the presiding officer and secretary of the applicant, that the persons listed as participating in the management or operation of the games are bona fide members, volunteers, or employees of the applicant; that these persons have not participated in the management or operation of more than four charitable games events conducted by any licensee in the calendar year, and that these persons will receive no remuneration or compensation, directly or indirectly, from any source, for participating in the management

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- of operation of the games. Any amendments to this listing must contain an identical sworn statement. If, from the information provided, the Department cannot determine with reasonable certainty that a member, volunteer, or employee does not have a criminal record which would make the organization ineligible for a license under Section 435.150, the Department will require such member, volunteer or employee to submit to fingerprinting in order to make a more certain determination as to the lack of a criminal history of the member, volunteer, or employee. Information concerning additional members, volunteers, and employees may be submitted at any time; however, such members, volunteers, and employees may not participate in the management or operation of any charitable games event unless the information required above is received by the Department in writing at least 14 days before the event on forms described by the Department.
- 4) If the organization will be using charitable games equipment when it owns, it must include with its application for a charitable games license a written application for a permit to use equipment, signed by the owner of the equipment, and a copy of the permit. The application for a charitable games license must be on the form prescribed by the Department, and must be accompanied by an application fee of \$50 in the form of a certified check or money order payable to the Illinois Department of Revenue. On the permit application, the organization must list all charitable games equipment it owns and certify that all such equipment has the name of the organization permanently affixed thereto in a clearly visible location. Such permits shall be valid indefinitely provided that each time the organization renews its charitable games license it provides the Department with an inventory of all charitable games equipment it owns. However, an organization possessing a permit must file an annual report with the Department that includes a listing of its inventory of charitable games equipment. This report must be filed by January 30 of each year. An organization holding a charitable games equipment ownership permit may lend such equipment without compensation to other licensed organizations without applying for a supplier's license (Section 6 of the Act); a diagram of the area(s) where the charitable games are to be played must be submitted with the application for a permit, the location at which chips will be sold and redeemed (the bank), and the location of all doorways entering into the area(s).
- 6) If the organization will not be conducting its charitable games event(s) on premises which it owns, or at which it has its principal office or conducts activities for which it is organized, the organization must submit with its application a copy of a written, signed lease with the person or organization holding the license to provide the premises on which the charitable games event(s) will be conducted. No charitable games license will be issued for any date(s) not expressly stated in

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- such lease;
- 7) Any other information requested by the Department which is necessary to establish the eligibility of the organization for a charitable games license;
- 8) A report on a form provided by the Department accounting for the disposition of the gross charitable games proceeds for the organization's most recent license year;
- 9) The application shall be signed by the residing officer and the secretary of the applicant organization, who shall attest under penalties of perjury that the information contained in the application is true, correct and complete (Section 3 of the Act). A licensee may hold only one charitable games license (Section 3 of the Act). A charitable games license will be issued for as many as four dates during a license year. These dates may be consecutive, or separate, or some combination thereof. The license must be used at each location each game will be conducted.
- 1) Addition of new dates to the license must be accompanied by event dates and times. Although applications are not required to list four dates on the application, charitable games licenses which are issued for fewer than four dates must be amended to add additional dates. The Department must receive written notice of an added date, or changed date or time, at least 30 days in advance of such date.
- 2) Changes in established locations. In cases of changed locations, an officer of the organization must notify the Department in writing at least 60 days in advance of the date on which the licensee wishes to conduct games at the alternate location (Section 3 of the Act). Changes in established event dates, locations or times--in cases of--changed--dates--locations--or times--an officer of the organization must notify the Department in writing at least 60 days in advance of--the--rescheduled event--games at the alternate location.
- 3) Any amendment to a license, including a change in date(s), time(s) or location(s), including the addition of a new event date(s) is subject to a 90 amendment fee. The licensee shall file a receipt for a charitable games license with the Department if an officer of the organization with the authority to sign for the incorporated area each sheriff's office whose jurisdiction includes the premises on which the charitable games events are authorized under the license (Section 4 of the Act).
- e) The Department will not issue a charitable games license for an event to be held in a municipality if the municipality or county has adopted an ordinance prohibiting such events and has filed a copy of the ordinance with the Department.
- f) A licensee must notify the Department of a change in officers within 30 days after such change. Notification must include the name, address, social security number, date of birth, race and date of address, number of the officer. In addition, the residing officer



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and secretary will be required to sign an amended application.

(Source: Amended at 21 Ill. Reg. 3978, effective 1-1-83)

## Section 435.130 Supplier's licenses

- a) Any person, firm, or corporation which sells, leases, distributes, or otherwise provides to any organization licensed to conduct charitable games events in Illinois any charitable games equipment must obtain a license to do so from the Department except as provided in Section 435.120(b)(4)(f).
- b) Application for a supplier's license must be made on the form provided by the Department, and must be accompanied by a license fee of \$500 in cash or by a check or money order payable to the Illinois Department of Revenue. Corporate applicants shall submit a copy of their Certificate and Articles of Incorporation. A supplier's license is valid for one year from its date of issuance. If, from the information provided, the Department cannot determine with reasonable certainty that a person who appears on the application in a position described in Section 435.150(a) appears to be a bona fide officer, director, partner, or stockholder of the applicant, the Department will require such person to submit to fingerprinting in order to make a more certain determination as to the lack of a criminal history of such person. Any change in officers, directors, partners, or stockholders of partners owning at least 10% of the shares of a corporate or partnership licensee must be reported to the Department within 30 days after the change. If ownership of a licensee is changed, a new application must be submitted to the Department (e.g., a corporate licensee is merged into a different corporation).

- 1) Along with the application form the applicant must submit a list of all charitable games equipment offered for sale, lease or distribution to any charitable games licensee, and the sales and/or rental price for all such equipment, including, if applicable, the price of equipment rented as part of a package deal. All charitable games equipment shall be kept segregated and separate from any other products, materials or equipment that the supplier might own, sell or lease (Section 6 of the Act), and the supplier shall inform the Department of the exact location of the storage of all charitable games equipment in the supplier's possession.
- 2) No supplier shall sell, lease or distribute to any charitable games licensee any item of charitable games equipment not included on the list or any amendments thereto described in subsection (b)(1) above, nor shall any supplier sell, lease or distribute to any charitable games licensee any item of charitable games equipment at a price other than the price on

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- file with the Department. Changes in price must be reported to the Department 30 days prior to such change.
- 3) No supplier shall sell, lease, lend or distribute any item of charitable games equipment to any organization or entity not holding a license to conduct charitable games. To ensure that the organization to whom equipment is sold, leased, lent, or distributed is licensed for charitable gaming, the supplier shall obtain from the organization and retain among his or her books and records a copy of the organization's license showing the license number, expiration date and the event date for which the equipment was sold, leased, lent, or distributed.
- 4) Suppliers may deliver equipment to a licensed organization up to one day before the date of the scheduled event, if the contract with the licensed organization specifies an early delivery date. Such delivery is authorized only when the supplier delivers the equipment to a secured location (e.g., a location whose access is restricted to the licensed organization with whom the supplier has contracted).

- c) Within 30 days after the end of any calendar quarter during which a supplier's license is in effect, the supplier shall file a return with the Department stating, among other things, the number of games equipment for such quarter and the gross proceeds derived from such sale or lease and the event dates for which equipment was sold, leased, lent, or distributed. A supplier shall keep books and records for the furnishing of charitable games equipment separate and distinct from any other business the supplier might operate (Section 6 of the Act). A supplier shall maintain all such books and records for a period of at least three years and must allow inspection of the books and records by agents or employees of the Department during reasonable business hours.

- d) The following general provisions apply to all licensed suppliers:

- 1) A supplier shall not alter or modify any charitable games equipment, or possess any charitable games equipment so altered or modified, so as to allow the possessor or operator of the equipment to obtain a greater chance of winning a game other than as under normal rules of play of such games (Section 6 of the Act). Any charitable games equipment so altered or modified shall be confiscated by the Department.
- 2) A supplier shall permit Department employees to enter the supplier's premises to inspect and test all charitable games equipment (Section 6 of the Act). Percentage of the proceeds or net receipts shall not be less than 10% of the gross proceeds or net receipts from any charitable games event (Section 6 of the Act).
- 3) A supplier shall not receive any fee from the sale, lease, or distribution of any charitable games equipment.
- 4) No employee, owner, partner, officer, or agent of a supplier may recruit or provide volunteers for a licensed organization.
- 5) No employee, owner, partner, officer, or agent of a supplier may participate in the management or operation of any charitable



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games event (Section 6 of the Act), whether for compensation or not, or whether even if the employee, owner or officer is also a member, volunteer, or employee of the charitable games licensee (Section 6 of the Act). The supplier may provide training classes and consulting service prior to the events, and it may have one representative present at the event to ensure its equipment is not damaged.<sup>7</sup>

6) A supplier shall not have any interest, direct or indirect, in the business of any person, firm, or corporation licensed under the Act to provide premises for the conduct of charitable games (Section 6 of the Act).

7) A supplier may not promote or solicit a charitable games event on behalf of a charitable games licensee or qualified organization (Section 6 of the Act). For instance, a supplier may not maintain separate facilities or designated areas for charitable games events at locations, nor may they recruit qualified organizations to host events.

8) No corporation, firm, agency or partnership, in which an owner, officer, partner, agent, or employee of a supplier holds any interest, direct or indirect, shall promote, advertise, announce, or solicit charitable games events on behalf of a charitable games licensee or qualified organization.

e) A supplier shall permanently affix his name to all charitable games equipment, supplies and pull tabs he sells, leases or rents. The name shall be plainly visible to the public while any item of charitable games equipment is being used for the purpose for which it was intended at a charitable games event. The supplier's name shall be affixed to any box or other package containing unopened pull tab or break open tickets, and to any promotional cards, or "flares" (Section 6 of the Act). The supplier must maintain uniform colors for each demonstration as established by the Department.

f) Suppliers may not enter into agreements not to compete in certain geographic areas with other suppliers.

g) Suppliers shall keep separate records for the furnishings of charitable games licensee, separate and distinct from any other business the supplier might operate (Section 6 of the Act). A supplier shall maintain all such books and records, including the documentation required by subsection (b)(3) above, for a period of at least three years and must allow inspection of the books and records by agents or employees of the Department during reasonable business hours.

(Source: Amended at 21 Ill. Reg. 3097, effective 1-1-11)

## Section 435.140 Provider's Licenses

a) Except as provided in subsection (c) below, the person or organization

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owning, leasing, or controlling premises upon which any charitable games event is to be conducted must first obtain a license to provide the premises for the charitable games event. As used in this Section "premises" means a distinct parcel of land and the buildings thereon. Premises may also include a boat upon which charitable games are being played, provided that documentation required by the Department regarding the location and identification of the boat is submitted with the application.

b) Application for a provider's license must be made on the form provided by the Department, and must be accompanied by a license fee of \$50 in the form of a certified check or money order payable to the Illinois Department of Revenue. If, from the information provided on the application, the Department cannot determine with reasonable certainty that the person applying for the license is the owner of the premises described in Section 435.140(a)(1), the Department may require the applicant to provide a criminal record which would make the applicant ineligible for the license. The Department will require such person to submit to fingerprinting in order to make a more certain determination as to the lack of a criminal history of such person. If the owner of the premises is a trust, the owner must disclose the names of all trust beneficiaries. Any change in officers, directors, partners, or stockholders or partners owning at least 10% of the shares of a corporate or partnership licensee must be reported to the Department within 30 days after the change. If ownership of a licensee is changed, a new application must be submitted to the Department within 30 days after the change. If ownership of a licensee is changed, a corporate license is merged into a different corporation. Each provider's license is valid for one year from its date of issuance. Barring that, yearly no more than four charitable games events may be conducted on the licensed premises, except that, in a county with fewer than 60,000 inhabitants, a provider may rent or provide such premises for up to eight days in a six-month period upon a showing that there is no other location suitable for the conduct of charitable games within 5 miles of such premises (Section 4 of the Act). A licensee may not conduct more than 8 charitable games nights per year. A municipality may provide the same premises for conducting 16 charitable games nights during a twelve month period (Section 5 of the Act).

d) If an organization has a license to conduct a charitable games event on premises which it owns, or at which it has its principal office or conducts activities for which it was organized, no provider's license is necessary. In addition, such licensee may obtain a provider's license in accordance with Section 5 of the Act to allow it to rent or otherwise provide its premises to another licensee for the conducting of an additional 4 charitable games (Section 5.1 of the Act). However, in no event shall a no premises may be used for the conducting conduct of more than eight (8) events games per calendar year (Section 5.1 of the Act), even if one or more licensed

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organization owns, conducts activities for which it was organized in, or has its principal office in, that premises.

§ 247. A provider may receive reasonable compensation for the provision of the premises. The compensation shall not be based upon a percentage of the gross proceeds from the charitable games (Section 5 of the Act). Any arms-length agreement as to rent between a provider and a charitable games licensee shall be presumed to be reasonable, provided both parties are in full compliance with all provisions of this Section.

**(f) A provider shall not have any interest in any supplier's business, either direct or indirect. No employee, officer, partner, agent, or owner of a provider may participate in the management or operation of a charitable games event (Section 5 of the Act), even if the employee, officer, partner, agent, or owner is also a member, volunteer, or employee of the charitable games licensee, and regardless of whether compensated (Section 5 of the Act). The provider's books-and-records relating to the provision of prizes for charitable games events shall be maintained for a period of three years after the expiration of any license issued pursuant to this Section and shall be available for inspection by agents or employees of the Department during reasonable business hours.**

144) A provider may not promote or solicit a charitable games event on behalf of a charitable games licensee or qualified organization (Section 5 of the Act). For instance, a provider may not maintain or operate a hotline or newsletter advertising the time and date of games. However, a marquis located on the provider's premises which indicates that a licensee is hosting a charity gaming night is permissible. A provider may not recruit a qualified organization for an event.

b) A provider is authorized to provide premises for charitable gaming only for organizations which have been duly licensed by the Department. To ensure that the organization is duly licensed, the provider shall obtain from the organization a copy of its license showing the license number and expiration date, and shall retain this documentation in his books and records.

i) The provider's books and records relating to the provision of premises for charitable games events, including the documentation required by subsection (h) above, shall be maintained for a period of three years after the expiration of a license issued pursuant to this section and shall be available for inspection by agents or employees of the Department during reasonable business hours.

(Source: Amended at 21 Ill. Reg. 3978, effective 1-1-1933)

## Section 435.150 Ineligibility for License

a) The following are ineligible for any license under the Act:

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11) Any person who has been convicted of a felony within 10 years of the date of the application;

2) Any person who has been convicted of a violation of Article 28 (Gambling) of the Criminal Code of 1961 [720 ILCS 5/Art. 28] [f4444-Rev--Stat--1985--chv-38v-part-28-1-et-seq7](#);

(3) ~~Any person or organization who has had any license issued under the Bingo License and Tax Act [230 ILCS 25], Illinois Pull Tabs and Jar Games Act [230 ILCS 20] or Charitable Games Act [230 ILCS 30] a bingo--or-charitable--games--license revoked by the Department:~~

4) Any person who is or has been a professional gambler; for example, one who has declared himself to be a professional gambler on an income tax return, or who has been convicted of a gambling offense in another jurisdiction;

5) Any person found gambling in a manner not authorized by this Act, participating in such gambling, or knowingly permitting such gambling on premises where an authorized charitable game event is being or has been conducted, (Section 9 of the Act) these acts are deemed to have been committed by a person when any determination issued by the Department (i.e., fine, suspension or revocation) regarding these events has become final firm or irrevocable in which a person defined in subsections (1)-(2)-(3) or (4) above has a proprietary, equitable or credit interest, or in which such person is active or employed;

6) Any business or organization in which a person defined in subsections (a)(1), (2), (3), (4) or (5) above has a proprietary, equitable, or credit interest, or in which the person is active or employed;

716† Any business or organization in which a person defined in subsections (a), (1), (2), (3), or (4) or (5) above is an officer, director, or employee, whether compensated or not (Section 7 of the Act);

8) Any organization in which a person (a)(1), (2), (3), or (5) above, is to participate in the management or operation of charitable games (Section 7 of the Act);

2984 Any unlicensed person or organization engaging in any activities required to be licensed under the Act. These acts are deemed to have been committed when any determination issued by the Department (e.g., fine, confiscation) regarding these events has become final;

1019) Any person or organization submitting any application, supporting documentation, return, or report containing statements which the person or organization knows, or should know, to be false;

11) Any person or organization which, when required pursuant to the Act or this Part, has failed to file or submit any report, return, application, or documentation, or which has failed to pay



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entirely by members, volunteers or employees of the sponsoring organization licensee, who will be required to account for all transactions. No "floor sellers" or "runners" are allowed. For each participant the sponsoring organization licensee shall keep a complete and accurate record of each purchase of chips by the participant, and if chips are redeemable for cash, the cash value of all chips redeemed by the participant. After each separate purchase of chips, the sponsoring organization licensee shall issue to the purchaser a separate receipt identified by a unique pre-printed number. The number of the receipt, and the amount of the purchase must be entered on the record maintained for that purchaser.

A) All receipts for the purchase of chips must be pre-printed with consecutive numbers, beginning with the number one. Any receipts not issued, and any voided receipts, must be retained as part of the sponsoring organization's licensee's records. (Example: Seller A is selling chips and issuing receipts numbered 1-150. Seller B is also selling chips and issuing receipts numbered 151-300. At the end of the night, seller A has only issued receipts through number 135. Blank receipts 136-150 must be retained by the sponsoring organization licensee.)

B) The entire amount of any admission fee shall be considered to be a purchase on chips. If "chips" are given in exchange for the purchase of the fee, and must be entered on the record of each participant. For this purchase of chips only, the sponsoring organization licensee need not issue a receipt to the purchaser.

2) If the value of all chips redeemed by a participant for cash exceeds the value of all chips purchased by the participant, the participant must give a signed receipt for the cash won. The participant's signature on the record kept by the sponsoring organization licensee shall be a sufficient receipt. A participant may cash in his chips, scrip or play money in exchange for currency not to exceed \$250 (Section 816) of the Act. There is no limit on the amount of noncash prizes that may be exchanged for chips, scrip or play money. No licensee may pay any participant in excess of \$950 more than the total cash value of the chips purchased by that participant. No participant may win more than \$950 in cash at any charitable games event.

3) When a participant exchanges chips for any noncash prize, the receipt shall describe the noncash prize and state the retail value of the prize.

4) All receipts submitted by this subsection (b) shall include the date and the sponsoring organization's licensee's name and charitable games license number.

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c) The sponsoring organization licensee shall designate a person in charge of and primarily responsible for the conduct of the charitable games event, and that person must be present on the premises continuously during the charitable games event (Section 4 of the Act). The person in charge must verify that only eligible persons, members, volunteers or employees of the sponsoring organization licensee participate in the management or operation of the event. The person in charge shall be a member of the sponsoring organization licensee for at least one year prior to the charitable games event and shall be familiar with the provisions of the Act and this part.

d) No less than one week prior to an event, each sponsoring organization licensee shall, no less than one week prior to an event, obtain and maintain a bond for the benefit of participants in the charitable games event to insure payment to the winners of such games (Section 4 of the Act). If cash prizes are offered, the amount of the bond shall be \$50 times the number of participants that the sponsoring organization licensee reasonably estimates will attend the charitable games event, based on past attendance at similar events and any other indications of attendance available to the sponsoring organization licensee. If only noncash prizes are offered, the amount of the bond shall be the amount the sponsoring organization licensee will have to pay to purchase all of the noncash prizes which, at any time prior to the event, had been advertised as being available to be won at the event, except that the sponsoring organization licensee need not pay to purchase prizes for which the purchase price is less than the amount of the noncash prize. Control of the sponsoring organization licensee no less than one week prior to the event. In a county with fewer than 60,000 inhabitants, the Department may waive the bond requirement upon a showing by a sponsoring organization licensee that it has sufficient funds on deposit to insure payment to the winners of such games.

e) The sponsoring organization licensee must post its charitable games license in a prominent place at or near the location where chips are sold and redeemed, and in a manner such that the license may be easily seen by participants.

f) Charitable games events must be conducted in accordance with local building and fire code requirements (Section 4 of the Act).

g) The sponsoring organization licensee must allow Department employees to be present on the premises during, and for two hours before and after, the charitable games event to inspect or test equipment, devices and supplies used in the conduct of the event, and to examine the records maintained by the licensee pursuant to Section 435.190.

h) The entire net proceeds from charitable games must be exclusively devoted to the lawful purposes of the organization permitted to conduct that game (Section 8 of the Act).

(Source: Amended at 21 Ill. Reg.

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## Section 435.170 Restrictions and Limitations on the Conducting of Charitable Games

- a) No license issued under the Act is assignable or transferrable (Section 8 of the Act).
- b) No person except a bona fide member-volunteer, or employee of the sponsoring organization, or a volunteer recruited by the sponsoring organization, licensee may participate in the management or operation of a charitable game event (Section 8 of the Act). Participation in the management or operation of an event includes, but is not limited to, selling admission tickets or pull tabs at the event; selling or redeeming or in any way assisting in the selling or redeeming of chips or participating in the conducting of any games played at the event or acting as a supervisor or pit boss of a person conducting the games. Conducting a game includes, but is not limited to, dealing cards in poker or other card games, spinning the roulette wheel, turning the chuck-a-luck cage, or acting as a croupier. Participation in the management or operation of games also includes persons who, at any time during the hours of the charitable game event, count or handle or supervise anyone who counts or handles any of the proceeds or chips at the event. A person who is present to ensure that the games are being conducted in conformance with the rules established by the licensed organization or is present to ensure that the equipment used in the operation of the games is in proper working order, or the management or operation of a charitable game event, whether or the sale admission tickets at the event, sells or redeems or in any way assists in the selling or redeeming of chips, participates in the conducting of any of the games played at the event, acts as a supervisor or of persons conducting the games, or at any time counts or handles or supervises anyone counting or handling any of the proceeds or chips at the event. Setting up, cleaning up, selling food and drink, and providing security either for persons and property at the event (other than for the charitable game equipment and money, chips or cards used in the conducting of charitable games) or to ensure the integrity of the games being conducted, do not constitute, in and of themselves, participation in the management or operation of a charitable game event.

c) No person may receive any remuneration or compensation for participating in the management or operation of a charitable game event (Section 8 of the Act).

d) Employees of a sponsoring organization licensee may participate in the management or operation of an event on a volunteer basis only. They may not be required to participate as a condition of employment, nor may they receive any compensation for such participation.

2b) Food and drink having a retail value less than \$10 ten-dollars which is provided to workers shall not be considered to be

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"remuneration or compensation."

- d) No person may participate in the management or operation of a charitable game event, and, at the same event, also place any wager, either personally or by proxy, on any charitable game conducted at the event.
- e) All persons participating in the management or operation of a charitable game event shall wear name tags, plainly visible, on which are printed the first and last names of the wearer in letters at least one-half inch in height.
- f) Volunteers, or bona fide members or employees of the sponsoring organization, may not participate in the management or operation of more than 4 charitable game events, either of the sponsoring organization or of any other organization licensed to conduct charitable games, during a calendar year. No person may participate in the management or operation of charitable game events for more than three different charitable game licensees in any calendar year.

g) No person participating in the management or operation of a charitable game event may solicit or accept any tip, gratuity, gift, or other consideration from any participant or from any licensee under the Act. The charitable game licensee shall post at least one sign prohibiting tipping in a conspicuous place on the premises where the charitable game event is being conducted. Charitable games may make a determination that equipment is not working properly and that a game must consequently be shut down. If this determination has been made, the supplier's representative present at the event may contact the supplier to request removal and repair or replacement of the equipment.

i) The amount wagered by any participant on the outcome of any roll of dice, selection of a set of numbers at random, or spin of a wheel shall not exceed \$10 ten-dollars worth of chips. The amount wagered by any participant on any round of betting during a card game shall not exceed \$10 ten-dollars worth of chips. In poker, a round of betting is deemed to occur whenever a deal of cards, or group of cards on which a wager will be made, has been distributed to participants (e.g., after the first two cards, one up and one hole card, have been distributed in 5-card stud poker). In blackjack, a player is authorized to wager \$10 on each hand that has been "split." A blackjack player who has chosen to double down may wager an additional bet not to exceed \$10. The licensee shall not extend credit to any participant in the charitable game event at any time.

j) No other than the sponsoring organization of charitable games may have a proprietary interest in the name promoted (Section 8(1)) of the Act.

k) Illegal Gambling and Raffles.

- 1) Unlicensed raffles or other forms of gambling prohibited by law shall not be conducted on the premises where a charitable games

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event is being conducted. A raffle is "licensed" only when a document is issued to the charitable games licensee by a city or county pursuant to an ordinance providing for the licensing of raffles.

- 2) No slot machines, including coin-in-the-slot-operated devices which allow a participant to play games of chance based upon the results of a random event, shall be permitted to be played and during the time at which charitable games event is being conducted (Section 8 of the Act).

## 11c Miscellaneous Provisions:

- 1) No person under the age of 18 years may play or participate in the conducting of a charitable games event. Any person under the age of 18 may be within the area where charitable games are being played only when accompanied by his or her parent or guardian (Section 8 of the Act). A licensee may, at its discretion, prohibit persons under the age of 18 from being within the area where charitable games are being played.
- 2) No licensee shall knowingly permit the entry into any part of the premises where a charitable games event is being conducted by any person who has been convicted of a violation of Article 28 (Gambling) of the Criminal Code of 1961 (Section 10 of the Act). No licensee shall knowingly permit the entry into any part of the premises where a charitable games event is being conducted by any person who has been convicted of a violation of Article 28 (Gambling) of the Criminal Code of 1961 (Section 10 of the Act).
- 3) No licensee is licensed to conduct charitable games licensee shall not be permitted to use any equipment or other thing derived from a person or organization licensed to supply charitable games equipment under the Act.
- 4) Any advertising by a sponsoring organization licensee regarding the conducting of its charitable games events shall contain its name and charitable games license number of the licensee. No person or organization may advertise any charitable games event unless the person or organization has a license to conduct such event.
- 5) Charitable games may be conducted only between the hours of noon and 2:00 a.m. midnight on the day for which a charitable games licensee is issued.

(Source: Amended at 21 Ill. Reg. 90783, effective 1/1/80)

## Section 435.180 Imposition of Tax, Returns

- a) There shall be paid to the Department 3% of the gross proceeds of any charitable games event conducted in the State (Section 9 of the Act). "Gross proceeds" means money received from the sale of chips and the entire fee or donation charged for admission or entry into a

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charitable games event. (Section 9 of the Act) For purposes of this Section, "fee or donation charged for admission or entry into a charitable games event" includes the amount paid to a sponsoring organization for hosting a charitable games event which is not open to the public (e.g., a "casino night" party which is hosted only for a corporation and its clients). The entire amount of an entry fee or donation is considered to be the gross proceeds, even when payment does not entitle the person paying to receive any chips, and even though each payment of cash shall be made by money order or certified check payable to the Illinois Department of Revenue (Section 9 of the Act). Payments shall be made within 30 days after the completion of the charitable games events. On successive days, the payment for all such events shall be made within 30 days after the completion of the last such event.

- c) Every organization licensed to conduct charitable games licensee must submit a report along with each payment of tax, on a form provided by the Department, which must contain the following information: A list of the types of charitable games conducted, and the number of stations of each; the number of persons purchasing chips; the amount of the entry fee, if any; gross proceeds; the amount of cash prizes and the cost to the licensee of noncash prizes; the names of all persons and organizations providing security either for persons or property at the event or to ensure the integrity of the games conducted at the event; a listing, on a form provided by the Department, of all individuals participating in the management or operation of the games, containing a signed statement by all such individuals and the presiding officer of the organization that all provisions of the Act have been complied with; and a listing of all books or records which the licensee is required to maintain. In addition, the licensee shall file a list of all noncash prizes awarded, stating whether the prizes were purchased by the licensee or donated, and, if donated, by whom.
- d) If a sponsoring organization intends to cancel licensee's charitable games event, it must notify the Department in writing prior to the event the licensee must file a report--no stating. If it notifies the Department after the event date, it must file a return report must be filed within 30 days after the scheduled date of the cancelled event.
- e) The sale of tangible personal property at charitable games events including sales for which chips are accepted as payment--instead of cash is subject to all State and local taxes and obligations (Section 8 of the Act).

(Source: Amended at 21 Ill. Reg. 90783, effective 1/1/80)

## Section 435.190 Records; Audits



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## a) Charitable games event checking account.

1) Each sponsoring organization licensee must establish a separate charitable games event checking account into which it must deposit the following funds:

A) The entire amount of admission fees collected prior to the day of the charitable games event, or the first day of events held on successive days;

B) The entire gross proceeds collected on the day(s) of the charitable games event(s), less only any cash prizes paid.

2) All proceeds of funds deposited in the charitable games event checking account must be by checks, having consecutive numbers, payable to a specific person or organization. No checks shall be written to "cash". All checks written on this account must be for some lawful purpose of the sponsoring organization licensee.

b) Licensees must keep all records and receipts which this Part requires licensees to maintain, whether or not such records and receipts must be filed with the Department. Organizations licensed to conduct charitable games shall keep any and all tax returns, contracts with providers and suppliers, and complete and accurate records issued to participants as set forth under Section 435.160(b)(1) of this Part. Suppliers shall keep all contracts with licensed organizations, lists of all charitable games equipment offered for sale, lease, loan, or distribution to organizations licensed to conduct charitable games, and copies of the licenses of organizations licensed to conduct charitable games. Providers shall keep all contracts with licensed organizations and copies of the licenses of organizations licensed to conduct charitable games. Licensees shall keep any record or receipt pertaining to any charitable games event for at least three years after the date of the event. All records shall be available for review by representatives of the Department during reasonable business hours. Any and all records of any licensee or any licensed supplier shall be subject to an audit by the Department without notice, performed at the premises where the charitable games event is conducted or at the office of the person or organization where the records are located. In the event of an audit by the Department, the person or organization being audited shall provide all such records, provide a place where such audit may be performed, and provide any requested information relevant to the conduct of the event.

c) When the Department has information indicating that any person or organization licensed under the Act has not paid the full amount of tax due, has not provided the Department with accurate or complete information concerning revenues from charitable games events, or is using proceeds from charitable games events in an unlawful manner, the Department may require the licensee to obtain from an Illinois certified public accounting firm, at the licensee's own expense, a verified and unqualified financial statement and verification of records of the licensee (Section 10 of the Act). If required, this statement must be submitted to the Department within 90 days after

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notice is received by the licensee. Failure to comply with this requirement may result in suspension or revocation of the licensee's license and forfeiture of all proceeds (Section 10 of the Act).

(Source: Amended at 21 Ill. Reg. 3073, effective 3-1-83)

## Section 435-200 Denial, Suspension, or Revocation of Licenses

a) The Department shall deny the application, including a renewal application, of any person or organization which does not satisfy all applicability requirements for a license for which application is made, or which is ineligible for a license under Section 435.150(a).

b) The Department shall suspend the license of any person or organization which, while its license is in effect, becomes ineligible for any reason. The suspension will remain in force until the person or organization regains eligibility.

b) The Department shall issue a warning to suspend or revoke the license of any person or organization violating the Act or this Part. The Department shall revoke any license when it finds that the licensee or any person connected therewith has violated or is violating the provisions of the Act or any rule promulgated thereunder (Section 10 of the Act), or when it finds that the licensee has become ineligible for any reason while the license is in effect.

1) The Director may review the offenses subjecting the licensee to revocation and may issue a suspension. The decision to reduce a revocation to a suspension, and the duration of the suspension, shall be based on the licensee's record. Such decisions shall not be limited to the licensee's record but shall include violations with the Act and its rules, the number, seriousness, and duration of the violations, and the licensee's cooperation in discontinuing and correcting violations. Violations of Sections 4, 5, 6, 7, and subsection (2) of Section 8 of the Act are considered to be more serious in nature than other violations under the Act. (Section 10 of the Act) Suspensions, revocations and warnings imposed under this subsection will range in duration from one day to one year. The choice and duration of sanctions will be based on a case-by-case basis and will be based on the licensee's history of compliance, the number, seriousness, and duration of violations, the cooperation, the number, seriousness of violations, and the sanctions imposed on others by the Department. By the licensee's in-dissenting and correcting violations under similar circumstances.

2) The effective date of a revocation or suspension shall be not less than 25 days after the date the Department mails the notice to the licensee. If the licensee requests hearing within 20 days as provided in subsection (2) (f)(2) below, the effective date of any revocation or suspension is stayed pending the

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outcome of the hearing, and the licensee may continue to operate under the license, unless the Department has determined that a summary revocation or suspension is warranted, as provided in Section 13 of the Act. If a license expires during a stay of revocation or suspension, the licensee may continue to operate only if a substantially complete renewal application and application fee have been received by the Department prior to the expiration of the license. Although the licensee may continue to operate, the Department will not issue the renewal license until the hearing decision has been rendered. If the hearing officer determines that revocation is warranted, the renewal application will be denied pursuant to Section 15.150(a)(3).

A revocation or suspension shall be in addition to, and not in lieu of, any other civil or criminal penalties or assessments and shall be subject to the Act.

**c) Notification of denial, warning, suspension, or revocation, requests for hearing:**

1) The Department shall send notices of denial, warning, suspension, or revocation by certified mail, return receipt requested, to the applicant or licensee at the mailing address stated on the applicant's or licensee's most recent license application. All such notices will include a statement of the reasons for the Department's action.

2) An applicant or licensee may request a hearing to contest a denial, suspension, or revocation ~~the Department's action pursuant to 66-tit-Adm--Code--269~~. The request shall be in writing, and must be received by the Department within 20 days after the date the Department mailed the notice of its action to the applicant or licensee. If no hearing is requested within 20 days, the Department's revocation, suspension, or denial becomes final, and the licensee is barred from operating. Hearings shall be governed by the regulations established at 86 Ill. Adm. Code 200.

(Source: Amended at 21 Ill. Reg. 3973, effective 11/1/78)

## Section 435.210 Criminal and Civil Penalties

a) The Act establishes criminal penalties for violations as follows:  
1) Section 4(1) of the Act provides that any willful misstatement contained in an application for a license to conduct charitable games ~~license constitutes perjury~~.

2) Section 6 of the Act provides that any person or organization within this State, or possesses with intent to sell, or lease, or distribute for compensation within this State, any charitable games equipment without having first obtained a license to do so

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from the Department is guilty of a Class A misdemeanor, the fine for which shall not exceed \$50,000, if the violation is committed knowingly.

3) Section 12 of the Act states that "any person who conducts or knowingly participates in an unlicensed charitable game commits the offense of gambling in violation of Section 28-1 of the Criminal Code of 1967, as amended." Section 12 further provides that anyone who violates any other provision of the Act or anyone who willfully violates any provision of this Part is guilty of a Class A misdemeanor. Any second or subsequent violation of the Act constitutes a Class 4 felony.

4) Section 13 of the Act provides that any person who violates any provision of the Department for the administration and regulation of the Department for the administration and enforcement of the Act is guilty of a Class A misdemeanor. Any second or subsequent violation constitutes a Class 4 felony.

5) Any person who fails to file a charitable games return or who files a fraudulent return or application under the Act, or any officer or agent of an organization or a corporation licensed under the Act who signs a fraudulent return or application filed on behalf of such organization or corporation is guilty of a Class A misdemeanor. Any second or subsequent violation constitutes a Class 4 felony (Section 12 of the Act).

b) Forfeitures shall be imposed as follows:

1) Any charitable games equipment used at an unlicensed charitable games event is forfeited to the State, and will be confiscated. Any charitable games equipment used at the charitable games event of a licensee whose license has been suspended or is in a suspended or revoked status is forfeited to the State, and will be confiscated. Provided that the owner of the equipment knows or could reasonably be expected to know of the suspended or revoked status of the licensee.

2) Any charitable games equipment used for any form of illegal gambling at an otherwise properly licensed charitable games event is forfeited to the State, and will be confiscated.

3) The gross proceeds from any charitable games event described in subsection (b)(1) above, or from any illegal gambling at any licensed charitable games event, are forfeited to the State and will be confiscated. The Department shall determine the amount of gross proceeds based on all information available to the Department and its judgment of all the facts of each particular case.

4) The Department will provide a detailed written receipt describing all confiscated equipment and proceeds.

c) The Act establishes civil penalties as follows: In addition to or independently of any forfeiture of gross proceeds as provided in subsection (b)(3) above, the Department shall assess against an organization a civil penalty equal to the gross proceeds derived by



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The Commission shall permit any statutory consumer protection agency to have access to any such contract, provided that: (i) the agency, and each individual that will have access on behalf of the agency, agree in writing to keep such contract confidential, such agreement to be in a form established by the Commission; and (ii) access is limited to full-time employees of the agency and the other persons as to whom the public utility or, if the agency and the public utility are unable to agree, are determined to be acceptable by the Commission. "Statutory consumer protection agency" means any office, corporation, or other agency created by Article IX of this Act or any other Illinois statute as of the effective date of this amendatory Act of 1996 that has an express statutory duty to represent the interest of public utility customers, any such agency subsequently created by act of the General Assembly that expressly authorizes the agency to access the information described in this subsection, or the Attorney General of the State of Illinois.

For purposes of this Section, the Citizens Utility Board (CUB) is the statutory consumer protection agency.

On July 1, 1996, while the bill creating P.A. 89-600 was awaiting the approval of the Governor, the Staff of the Commission notified CUB, the Attorney General, and the designated agents of all electric, gas, water, and sewer utilities of a meeting to be held on July 9, 1996. On the basis of this initial meeting and follow-up meetings, the Participants adopted the following resolution: "The Staff of the Commission, the Attorney General (collectively, "authorized agencies") to have access to the confidential contracts. These rules establish the requirements for access, determine a procedure to follow when a utility disputes an authorized agency's choice of a person to be given access to the subject contracts, and fix sanctions for abuse of access to confidential contracts."

10) Are there any proposed amendments to this Part pending? No

11) Statement of Statewide Policy Objectives: These emergency rules neither create nor expand any state mandate on units of local government, school districts, or community college districts.

12) Information and questions regarding these rules shall be directed to:

Conrad Rubinkowski  
Office of General Counsel  
Illinois Commerce Commission  
527 East Capitol Avenue  
P.O. Box 19280

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Springfield, IL 62794-9280  
217/785-3922

The full text of the emergency rules begins on the next page:

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TITLE 83: PUBLIC UTILITIES

CHAPTER 1: ILLINOIS COMMERCE COMMISSION  
SUBCHAPTER B: PROVISIONS APPLICABLE TO MORE THAN ONE KIND OF UTILITY

PART 335  
CONFIDENTIAL CONTRACTS

SUBPART A: FILING OF CONFIDENTIAL CONTRACTS

Section  
335.10 Filing of Confidential Contracts  
EMERGENCY

SUBPART B: ACCESS TO CONTRACTS

Section  
335.100 Access to Confidential Contracts  
EMERGENCY  
335.110 Form of Access  
EMERGENCY  
335.120 Scope and Duration of Access  
EMERGENCY  
335.130 Security for Contracts  
EMERGENCY  
335.140 Enforcement  
EMERGENCY  
335.150 Contested Access  
EMERGENCY

APPENDIX A Agreement for Full-time Employees of Authorized Agencies

APPENDIX B Agreement for Part-time Employees or Independent Contractors of Authorized Agencies

AUTHORITY: Implementing Section 9-102.1 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/9-102.1 and 10-101].

SOURCE: Emergency rules adopted at 21 Ill. Reg. 4008, effective March 17, 1997, for a maximum of 150 days.

SUBPART A: FILING OF CONFIDENTIAL CONTRACTS

Section 335.10 Filing of Confidential Contracts  
EMERGENCY

a) Any public utility that files a contract pursuant to a rate schedule that has been approved by the Illinois Commerce Commission

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(Commission) and that enables the public utility to provide service to customers under contracts that, pursuant to Section 9-102.1(a) of the Public Utilities Act (Act) [220 ILCS 5/9-102.1(a)], are treated as proprietary and confidential by the Commission shall file two copies of the contract (contract) with the Chief Clerk of the Commission in the Springfield office of the Commission.

b) Any public utility that files a contract under subsection (a) shall also send written notice of such filing to any entity listed as an authorized agency in Section 335.100, and shall include proof of such notice in the filing of the contract. The notice shall include the name of the public utility, the date of filing the contract with the Commission, and sufficient information to identify the contract. However, the notice need not contain the name of the customer.

SUBPART B: ACCESS TO CONTRACTS

Section 335.100 Access to Confidential Contracts  
EMERGENCY

The Attorney General of the State of Illinois, the Citizens Utility Board (see 220 ILCS 10), and the Office of Public Counsel (see 220 ILCS 5/11-201) are authorized agencies (authorized agency) by Section 9-102.1(d) of the Act and have access to those contracts for the provision of utility services filed by public utilities on a confidential or proprietary basis pursuant to Section 9-102.1(a) of the Act.

Section 335.110 Form of Access  
EMERGENCY

a) Except as provided in subsections (b) and (c), access to contracts filed pursuant to Section 9-102.1(a) of the Act shall be limited to inspection of the contracts in the offices of the Commission in Chicago or Springfield, provided that the employee or agent of the authorized agency has on file with the Commission a confidentiality agreement as provided in subsections (d) and (e). During the inspection, no copies may be made of any contract filed under Section 9-102.1(a) of the Act.

b) An authorized agency, subject to providing a confidentiality agreement as provided in subsection (d) shall be permitted to receive from the public utility one copy of the contract filed pursuant to Section 9-102.1(a) of the Act for review. This copy may be redacted to exclude the name, address and the service address(es) of the customer. The contract shall be provided to the authorized agency within five business days after the later of the effective date of the confidentiality agreement or the request of the authorized agency for such access. In addition, upon the request of the authorized agency, the public utility shall provide the redacted information to the authorized agency within five days of the request. This information



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shall be included as information obtained pursuant to the terms of the confidentiality agreement. The authorized agency shall be permitted to retain the contract as provided in Section 335.120. During any period of time while the contract is in the possession of the authorized agency, the contract shall be kept and maintained in accordance with the security procedures specified in Section 335.130. The authorized agency shall permit review of the contract in its possession only by individuals qualified to review such contracts in accordance with subsections (d) and (e).

- c) An individual employed by the authorized agency either on an independent or part-time basis (independent contractor) qualified in accordance with the provisions of subsection (e) shall be permitted to receive from the authorized agency the authorized agency's copy of the contract filed pursuant to Section 9-102.1(a) of the Act for review at the independent contractor's premises. The contract provided for such review may be redacted to exclude the name, address and the service address(es) of the customer, and to the extent that the redacted information has been made available to the authorized agency pursuant to subsection (b) above, such information may be shared with the independent contractor, provided that the information remains protected under the confidentiality agreement. The independent contractor shall be permitted to retain the contract as provided in Section 335.120. During any period of time while the contract is in the possession of the independent contractor, the contract shall be maintained in accordance with the security procedures specified in Section 335.130. The independent contractor shall permit review of the contract in its possession only by individuals qualified to review such contracts in accordance with subsections (d) and (e).

- d) A full-time employee of an authorized agency who is seeking access to any contract filed pursuant to Section 9-102.1(a) of the Act shall present to the public utility, for filing with the Chief Clerk of the Commission, a signed confidentiality agreement, as set forth in Appendix A, indicating that he/she is a full-time employee of the authorized agency and setting forth the confidential nature of the agency's agreement to maintain the confidentiality of the contract. Such confidentiality agreement shall extend to all information contained in the contract and any information redacted from the contract and subsequently provided by the public utility and shall limit the use of the contract or any included information for purposes of review for compliance with the Act. The form shall be signed by all the full-time employees who are to have access to the contract and shall also be signed by the executive director of the public utility. The Attorney General or his/her designee, or the public utility, may, at their option, appoint a representative to the public utility, in which the contract is maintained, who is seeking access to the contract. If an independent contractor retained or employed by the authorized agency, the independent contractor shall present to the public utility, for filing with the Chief Clerk of the Commission, a

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signed confidentiality agreement, as set forth in Appendix B, indicating that he/she is an independent contractor employed or retained by the authorized agency and setting forth the independent contractor's agreement to maintain the confidential nature of the contract. Where the authorized agency's copy of the contract is to be provided to the independent contractor for use at his/her premises, the authorized agency shall provide notice of such action to the public utility. In addition to the requirements set forth in subsection (c), the confidentiality agreement shall require the independent contractor to certify that the independent contractor is not, and will not for a period of one year after the date the independent contractor's right to access to the contracts under the confidentiality agreement terminates, provide consulting or other services to a competitor of the public utility or to a customer of the public utility relating to negotiations for a contract for rates for utility services or that are otherwise related to subject matter or scope to the material issues in the contract for which the public utility from sought. Nothing in this Part shall prohibit the public utility from seeking appropriate legal redress, resulting directly or indirectly in damages, including attorney's fees, resulting directly or indirectly in the rescission of the terms of a contract filed under Section 9-102.1(a) of the Act or information related to such a contract, the disclosure or use of which is in violation of the terms of an agreement executed pursuant to this subsection. An officer of the public utility that filed the contract must sign the confidentiality agreement indicating the public utility's acquiescence to the independent contractor's access to the contract prior to such access being granted. The public utility shall have ten business days to respond to the independent contractor's request for access to the contract.

## Section 335.120 Scope and Duration of Access

## EMERGENCY

- a) An agreement authorizing access to a contract subject to this Part shall be effective for only that contract. The access so granted shall be valid for the earliest of:
- 1) one year from the effective date of any such agreement; or
  - 2) the date on which the employment of consulting contract with the authorized agency of the person so granted access is terminated; or
  - 3) the date on which the public utility terminates the access of the person for cause in accordance with Section 335.140.
- b) The confidentiality requirements stated in an agreement authorizing access to the contract subject to this Part shall permanently remain in effect unless, until, and to the extent that, the information contained in the contract becomes part of the public domain otherwise than through a breach of the confidentiality agreement by a party



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authorized to have access to the contract pursuant to this Part.

- c) Subject to the effectiveness of a valid confidentiality agreement and compliance with the provisions of this Part, the authorized agency shall be permitted to retain the contract for a period of ninety days from the date on which the public utility provides the contract to the authorized agency (retention period). The authorized agency may request and obtain one extension for an additional ninety day period by notifying the public utility and requesting the extension, subject to a valid confidentiality agreement and the other provisions of this Part. At the termination of the retention period and any extension, the contract shall be returned to the public utility that provided the contract.
- d) After the retention period and any extension, an authorized agency shall, upon request, be granted one additional ninety day period to have the contract at its premises, at any time during the duration of the contract, subject to a valid confidentiality agreement and subject to all the restrictions as set forth in this Part.
- e) Access to the contract subject to this Part shall be permitted at any time during the term of the contract in the offices of the Commission in Chicago and Springfield, subject to a valid confidentiality agreement and all the provisions of this Part.

## Section 335.130 Security for Contracts

## EMERGENCY

All copies of the contracts provided to authorized agencies pursuant to this Part shall be marked by the public utility in such manner to identify the copies as copies provided to that agency and shall be maintained at all times, while in the possession of the authorized agency or an independent contractor retained by an authorized agency in its secured location and not available to anyone other than those individuals who have been granted confidentiality agreements. The authorized agency, part-time employee, or independent contractor shall not duplicate or reproduce in any manner the contract provided under this Part.

## Section 335.140 Enforcement

## EMERGENCY

- a) In those instances in which the contract provided pursuant to Section 335.110 is duplicated or the information contained in the contract is used in violation of the terms of this agreement, the authorized agency responsible for maintaining the confidential nature of the contract shall lose its privileges to have the copies provided at its office, pursuant to Section 335.110(b) and (c), for a period of one year. The authorized agency would then only be able to view such contracts in the offices of the Commission during that one year interim period as provided in Section 335.110(a). If the public utility has a reasonable belief that the contract, provided pursuant

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to Section 335.110 to an authorized agency, was duplicated or the information contained in the contract was used in violation of the terms of this agreement, the public utility shall give notice to the authorized agency and the Commission of the circumstances and the public utility may discontinue providing copies of further contracts to such authorized agency for one year or until the authorized agency shows to the satisfaction of the public utility or the Commission that the authorized agency was at all times relevant in full compliance with the terms and conditions of the confidentiality agreement and this Part.

b) Unauthorized copying of the contract or the unauthorized disclosure by an independent contractor of the information contained in the contract filed pursuant to Section 9-102.1(a) of the Act shall be good cause for a public utility to find such person unacceptable for access to future contracts subject to provisions of Section 335.130.

- c) The unauthorized copying of the contract or the unauthorized disclosure by the independent contractor of the information contained in the contract filed pursuant to Section 9-102.1(a) of the Act shall constitute good cause for the public utility to terminate access to the contract currently in the possession of such independent contractor.

## Section 335.150 Contested Access

## EMERGENCY

Should the public utility refuse to acquiesce to the independent contractor's request for access to the contract, the authorized agency may file a petition under the Commission's Rules of Practice (83 Ill. Adm. Code 200) seeking a finding by the Commission pursuant to Section 9-102.1(a) of the Act that the independent contractor is attempting to obtain access to the contract pursuant to this Part. The petition shall name the public utility as the respondent.

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF EMERGENCY RULES

Section 335. APPENDIX A Agreement for Full-time Employees of Authorized  
 Public Utilities  
 EMERGENCY

AGREEMENTS UNDER SECTION 9-102.1 OF THE PUBLIC UTILITIES ACT

ACCESS FOR FULL-TIME EMPLOYEES OF THE  
 ATTORNEY GENERAL OF THE STATE OF ILLINOIS,  
 THE CITIZENS UTILITY BOARD AND  
 THE OFFICE OF PUBLIC COUNSEL

Section 1 (must be completed)

1. The undersigned are full-time employee(s) of the [Citizens Utility Board] [Office of the Attorney General] [Office of Public Counsel] [the "authorized agency"] and enter into this confidentiality agreement in connection with access to a certain contract identified as \_\_\_\_\_ ("contract") which \_\_\_\_\_, an Illinois public utility (utility), has filed with the Illinois Commerce Commission on a confidential basis pursuant to Section 9-102.1 of the Public Utilities Act. The effective date of this agreement is \_\_\_\_\_. The undersigned agrees not to copy, duplicate, or reproduce in any manner the contract and not to use the contract for any purpose other than reviewing it for compliance with the provisions of the Public Utilities Act (220 ILCS 5). The undersigned also agrees to keep the contract and all information contained therein, and any information redacted in accordance with 83 Ill. Adm. Code 335.110(b) or (c) confidential, and not to divulge the terms of the contract or any confidential information coming to my knowledge from the contract to any person other than a person authorized to receive access to such confidential contract pursuant to Section 9-102.1 of the Public Utilities Act who has executed a confidentiality agreement pursuant to 83 Ill. Adm. Code 335 ("Part 335") with respect to the contract. The undersigned agrees that he/she/they have reviewed and understand and will comply fully with the provisions of Part 335.

2. If the authorized agency receives a copy of the contract for review in accordance with 83 Ill. Adm. Code 335.110(b), the undersigned agrees that, at the earlier of the end of the retention period (as defined in 83 Ill. Adm. Code 335.120(c)) or such extended or additional period as is permitted under 83 Ill. Adm. Code 335.120(c) or 335.120(d); or the date that the undersigned's right of access to the contract terminates in accordance with Paragraph 3 below, the authorized agency shall return the contract to the utility.

3. The confidentiality requirements stated in this agreement shall remain permanently in effect unless and until the extent of the information contained in the contract becomes a part of the public domain otherwise than through the breach of a confidentiality agreement by a party authorized to have access to the contract pursuant to Part 335. Access to the contract shall be permitted by this agreement until the earliest of (i) one year from the effective date; (ii) the date on which the full-time employment of the

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF EMERGENCY RULES

undersigned with the authorized agency is terminated; or (iii) (with respect to access to a copy for review at the office of the authorized agency pursuant to 83 Ill. Adm. Code 335.110(b) only) the date on which access terminates in accordance with 83 Ill. Adm. Code 335.140.

Full Time Employees:

Signature: \_\_\_\_\_ Name & Title: \_\_\_\_\_ Date \_\_\_\_\_

Section 2 (must be completed)

I, \_\_\_\_\_, the [Executive Director of the Citizens Utility Board] [Attorney General or his/her designee] [Public Counsel or his/her designee], hereby certify that the person(s) named above is (are) a full-time employee(s) of the authorized agency. The authorized agency agrees not to copy or duplicate the contract and not to use the information contained in the contract for purposes other than reviewing it for compliance with the provisions of the Public Utilities Act (220 ILCS 5). The undersigned also agrees to keep the contract and all information contained therein, and any information redacted in accordance with 83 Ill. Adm. Code 335.110(b) or (c), confidential, and not to divulge the terms of the contract or any confidential information coming to my knowledge from the contract to any person other than a person authorized to receive access to such confidential contracts pursuant to Section 9-102.1 of the Public Utilities Act who has executed a confidentiality agreement pursuant to Part 335 with respect to the contract.

Dated: \_\_\_\_\_

Signature \_\_\_\_\_

Title \_\_\_\_\_

Section 3 (must be completed)

I, \_\_\_\_\_, an officer of \_\_\_\_\_, an Illinois public utility, agree that the foregoing terms are consistent with the provisions of 83 Ill. Adm. Code 335, and thus forward this agreement to the Clerk of the Illinois Commerce Commission in accordance with 83 Ill. Adm. Code 335.110(d).

Dated: \_\_\_\_\_

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF EMERGENCY RULES

Signature  
Title

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF EMERGENCY RULES

Section 335 APPENDIX B Agreement for Part-time Employees or Independent Contractors of Authorized Agencies  
EMERGENCY

ACCESS FOR PART-TIME EMPLOYEES OR INDEPENDENT CONTRACTORS  
RETAINED BY THE ATTORNEY GENERAL OF THE STATE OF ILLINOIS,  
THE CITIZENS UTILITY BOARD OR THE OFFICE OF PUBLIC COUNSEL

## Section 1 (must be completed)

1. I, \_\_\_\_\_, enter into this agreement for the purpose of receiving access to a certain contract identified as \_\_\_\_\_ ("contract") which \_\_\_\_\_, an Illinois public utility ("utility"), has filed with the Illinois Commerce Commission on a confidential basis pursuant to Section 9-102.1 of the Public Utilities Act. The effective date of this agreement ("effective date") is \_\_\_\_\_. I am a part-time employee of or independent contractor ("independent contractor") employed/retained by the Citizens Utility Board (Office of the Attorney General) (Office of Public Counsel) (Attorney General's agency), and I hereby agree not to copy, duplicate the contract and not to use the information contained in the contract for purposes other than for reviewing it for compliance with the Public Utilities Act (220 ILCS 5). I agree to keep the contract and all information contained therein, and any information redacted in accordance with 83 Ill. Adm. Code 335.110(b) or (c), confidential; and not to divulge the terms of the contract or any information coming to my knowledge from the contract to any person other than a person authorized to have access to the contract pursuant to Section 9-102.1 of the Public Utilities Act who has executed a confidentiality agreement pursuant to 83 Ill. Adm. Code 335 with respect to the contract.

2. I certify that I am not currently providing and will not provide, for a period of one year from the date that my right of access to the contract under this agreement terminates, consulting or other services to a competitor of the utility or a customer of the utility which consulting or other services relate to negotiations for a contract for rates for utility service or otherwise relate in subject matter or scope to material terms of the contract.

3. I understand that, if I breach this confidentiality agreement, the utility may bring a legal action seeking recovery of all costs, losses or damage, including attorneys' fees resulting directly or indirectly from disclosure or use of any information contained in the contract in violation of this agreement.

4. Access to the contract shall be permitted by this agreement until the earliest of: (i) one year from the effective date; (ii) the date on which my employment or consulting contract with the authorized agency is terminated; or (iii) the date on which the utility terminates my right of access to the contract for cause in accordance with 83 Ill. Adm. Code 335.140.

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF EMERGENCY RULES

5. The confidentiality requirements stated in this agreement shall remain permanently in effect until the date the information contained in the contract becomes part of the public domain. Otherwise, the information shall be treated as confidential information. The Commission shall not be bound by the provisions of this agreement if the information is obtained through the breach of a confidentiality agreement by a party authorized to have access to the contract pursuant to 83 Ill. Adm. Code 335 ("Part 335").

6. If I receive the authorized agency's copy of the contract for review at my premises in accordance with 83 Ill. Adm. Code 335.110(c), I agree to maintain the contract in a locked or secured location and to ensure that the contract is not made available to anyone other than individuals who are authorized by the provisions of Part 335 to review the contract and who have executed a confidentiality agreement pursuant to Part 335 with respect to the contract. I agree not to duplicate or reproduce the contract in any manner. I further agree that, at the earlier of the end of the retention period (as defined in 83 Ill. Adm. Code 335.120(c)) or such extended or additional period as is permitted under 83 Ill. Adm. Code 335.120(c) or 335.120(d); or the date that my right of access to the contract terminates in accordance with Paragraph 4 above, I will return the contract to the authorized agency for return to the public utility.

7. I acknowledge that I have reviewed the provisions of Part 335 and that I understand and will fully comply with those provisions.

8. The utility may make a reasonable inquiry into the facts required to establish that I have implemented and enforced reasonable procedures to ensure that the terms and conditions of this agreement are fully complied with and I agree to furnish the utility with the information that is reasonably necessary to conduct such an inquiry. If, as a result of such inquiry, the utility has reason to believe that I am failing to comply with this agreement, the utility may take such action as it determines is necessary to protect its interests, including, but not limited to, terminating this agreement and directing the return of all contracts provided pursuant to this agreement.

Dated:

Signature

Title

Section 2 (must be completed)

I, \_\_\_\_\_, the (an) Executive Director of the Citizens Utility Board (Attorney General or his/her designee) (Public Counsel or his/her designee), hereby certify that the person whose signature appears above is a part-time employee of or an independent contractor employed/retained by a public utility, and that the person is not a full-time employee of the authorized agency. The authorized agency agrees not to copy or duplicate the contract and not to use the information contained in the contract for purposes other than for reviewing it for compliance with the Public Utilities Act (220

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF EMERGENCY RULES

ILCS 51. The authorized agency also agrees to keep this agreement, the contract and all information contained therein, and any information, redacted in accordance with 83 Ill. Adm. Code 335.110(c) or (d), confidential, and not to divulge the terms of the contract or any confidential information which is the subject of this agreement to any person other than a person authorized to receive access to such confidential contracts pursuant to Section 9-102.1 of the Public Utilities Act who has executed a confidentiality agreement pursuant to 83 Ill. Adm. Code 335 with respect to the contract.

Dated:

Signature

Title

Section 3 (must be completed)

I, \_\_\_\_\_, an officer of \_\_\_\_\_, a public utility, state that the person whose name appears in Section 1 is acceptable for purposes of being given access to the contract pursuant to the terms of this agreement, and that this agreement should be filed with the Chief Clerk of the Illinois Commerce Commission in accordance with 83 Ill. Adm. Code 335.110(d).

Dated:

Signature

Title

## ILLINOIS HOUSING DEVELOPMENT AUTHORITY

## NOTICE OF EMERGENCY AMENDMENT

1) Heading of the Part: Low-Income Housing Tax Credit Allocation

2) Code Citation: 47 Ill. Adm. Code 350

3) Section Numbers: Proposed Action:

350.101	Amendment
350.102	Amendment
350.104	Amendment
350.201	Amendment
350.202	Amendment
350.203	Amendment
350.204	Amendment
350.205	Amendment
350.206	Amendment
350.207	Amendment
350.208	Amendment
350.209	Amendment
350.210	Amendment
350.211	Amendment
350.212	Amendment
350.213	Amendment
350.214	New
350.215	New

4) Statutory Authority: Sections 7.24g, 7.19 and 7.25 of the Illinois Housing Development Act [20 ILCS 3805/7.24g, 7.19 and 7.25].

5) Effective Date of Amendment: March 17, 1997

6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it expires: N/A

7) Date Filed in Agency's Principal Office: February 21, 1997

8) Reason for Emergency: The existing rules are out of date; they do not provide for requirements set forth in the Qualified Allocation Plan approved by the Governor. Under federal law, the Authority must follow the provisions of the Qualified Allocation Plan in allocating low income housing tax credits. Without emergency rules, the Authority cannot begin to make reservations of low income housing tax credits.

9) A Complete Description of the Subjects and Issues Involved: This Part sets forth the procedures for allocation of housing tax credit dollars under the Illinois Housing Development Authority's Tax Credit Program. The Tax Credit Program was created to comply with federal law and to assist in acquisition, construction and rehabilitation of affordable single-family and multifamily rental housing for low-income households.

## ILLINOIS HOUSING DEVELOPMENT AUTHORITY

## NOTICE OF EMERGENCY AMENDMENT

10) Are there any proposed amendments to this Part Pending? No

11) Statement of Statewide Policy Objectives: These emergency amendments do not create, expand or modify a state mandate.

12) Information and questions regarding these amendments shall be directed to:

Richard B. Muller  
401 N. Michigan Ave., Suite 900  
Chicago, Illinois 60611  
312/936-5327

The full text of the emergency amendments begins on the next page.

## ILLINOIS HOUSING DEVELOPMENT AUTHORITY

## NOTICE OF EMERGENCY AMENDMENT

TITLE 47: HOUSING AND COMMUNITY DEVELOPMENT  
CHAPTER 11: ILLINOIS HOUSING DEVELOPMENT AUTHORITY

## PART 350

## LOW-INCOME HOUSING TAX CREDIT ALLOCATION

## SUBPART A: GENERAL RULES

## Section

## 350.101 Purpose and Objectives

## EMERGENCY

## 350.102 Definitions

## EMERGENCY

## 350.103 Compliance with Federal Law

## EMERGENCY

## 350.104 Severability

## EMERGENCY

## SUBPART B: LOW-INCOME HOUSING TAX CREDIT ALLOCATIONS

## Section

## 350.201 Authority to Issue Tax Credits Credit-Issuing-Authority

## EMERGENCY

## 350.202 Allocation Pursuant to Qualified Allocation Plan

## EMERGENCY

## 350.203 Application Process

## EMERGENCY

## 350.204 Notice of Application

## EMERGENCY

## 350.205 Authority Review

## EMERGENCY

## 350.206 Allocation Amount - Project Feasibility

## EMERGENCY

## 350.207 Approval or Rejection

## EMERGENCY

## 350.208 Extended Use Agreement Low-Income-Housing-Commitment

## EMERGENCY

## 350.209 Project Certification

## EMERGENCY

## 350.210 Housing Tax Credit Bidders Allocation

## EMERGENCY

## 350.211 Reservation of Housing Tax Credits Credit Bidders for Year Period Other Than Current Calendar Year

## EMERGENCY

## 350.212 Revocation of Reservations

## EMERGENCY

## 350.213 Compliance Monitoring

## EMERGENCY

## 350.214 Fees

## EMERGENCY

## ILLINOIS HOUSING DEVELOPMENT AUTHORITY

## NOTICE OF EMERGENCY AMENDMENT

EMERGENCY  
350.215 Carryover Allocations  
EMERGENCY

AUTHORITY: Sections 7.24g, 7.19 and 7.25 of the Illinois Housing Development Act [20 ILCS 3805/7.24g, 7.19 and 7.25].

SOURCE: Emergency rules adopted at 11 Ill. Reg. 6553, effective March 30, 1987, for a maximum of 150 days; emergency expired August 27, 1987; adopted at 11 Ill. Reg. 1927L, effective November 17, 1987; amended at 13 Ill. Reg. 5947, effective April 18, 1989; Part repealed, new Part adopted by emergency action at 14 Ill. Reg. 5827, effective March 19, 1990, for a maximum of 150 days; emergency expired August 16, 1990; Part repealed, new Part adopted at 14 Ill. Reg. 14021, effective August 16, 1990; amended at 15 Ill. Reg. 17110, effective November 13, 1991; emergency amendment at 16 Ill. Reg. 5369, effective March 3, 1992, for a maximum of 150 days; modified at 16 Ill. Reg. 9137, effective June 1, 1992; amended at 16 Ill. Reg. 11831, effective July 13, 1992; emergency amendment adopted at 21 Ill. Reg. ~~4023~~, effective March 17, 1997, for a maximum of 150 days.

## SUBPART A: GENERAL RULES

## Section 350.101 Purpose and Objectives

## EMERGENCY

This Part is being established to set forth the standards for the allocation of low-income housing tax credits created by the Illinois Housing Development Authority. The Statewide Credit Agency for the State of Illinois, Section 307.24 of the Act, as defined below and Section 42 of the Internal Revenue Code (26 U.S.C., Section 42) for in connection with the acquisition, construction and rehabilitation of low-income housing.

(Source: Emergency amendment at 21 Ill. Reg. ~~4023~~, effective March 17, 1997, for a maximum of 150 days)

## Section 350.102 Definitions

## EMERGENCY

\*Act\*: The Illinois Housing Development Act [20 ILCS 3805] (HHS-Rev Stat-1989-ch-67-1/2-par-301-et-seq.).

\*Allocation\*: The award of Tax Credits to a Project pursuant to Section 42.

\*Applicable Fraction\*: The lower of the unit fraction or the floor space fraction. The unit fraction is equals the number of low-income housing units divided by the total number of units in the Project property-as-hereinafter-defined. The floor floor space



## ILLINOIS HOUSING DEVELOPMENT AUTHORITY

## NOTICE OF EMERGENCY AMENDMENT

fraction is equals the square footage of the low-income housing units divided by the project's total square footage.

"Application": An application to the Authority submitted by a Sponsor, for Tax Credits for a Project, including required supporting documentation.

"Authority": The Illinois Housing Development Authority.

"Authority Housing Credit Ceiling": The portion of the State Housing Credit Ceiling available for Allocation by the Authority.

"Compliance Period": The period during in which the Project--as hereinafter--defined is obligated to comply with the occupancy restrictions (both income and rent) of Section 42 provide--low-income housing--units--pursuant--to--the requirements--of--the--Internal--Revenue Code--as--hereinafter--defined.

"Credit Period": The period of 10 taxable years beginning with the taxable year in which the Project building is placed in service or, at the election of the Sponsor, as--hereinafter--defined the succeeding taxable year.

"Governor": The Governor of the State of Illinois.

"Internal Revenue Code": The Internal Revenue Code of 1986 (26 U.S.C. Section 1 et seq.) and the treasury regulations promulgated under it, all as they may be amended from time to time (26-298-1-42-1-42-2-1987--no subsequent dates or editions).

"Low-Income": A household income that is less than or equal to 60% of the median income for the area in which a Project is located, as determined by the United States Department of Housing and Urban Development.

"Part": This Part 350.

"Project": The qualified building or buildings (as defined in Section 42) that are real-property-together-with-all-improvements--buildings--equipment--and-personal-property--appurtenant--thereto--which--is the subject of an Application application for allocation of housing-tax credit-dollars.

"Qualified Allocation Plan": The Authority's qualified allocation plan required under Section 42 of the Internal Revenue Code.

"Reservation": The Authority's conditional reservation of Tax Credits for a Project.

## ILLINOIS HOUSING DEVELOPMENT AUTHORITY

## NOTICE OF EMERGENCY AMENDMENT

"Section 42": Section 42 of the Internal Revenue Code and the regulations and revenue rulings promulgated under it, all as they may be amended from time to time.

"Sponsor": An the entity applying for or receiving Tax Credits for a Project housing-tax-credit-dollars pursuant to this Part.

"State": The State of Illinois.

"State Housing Credit Agency": The Illinois--Housing--Development Authority.

"State Housing Credit Ceiling": The amount of Tax Credits available for allocation in the State for any calendar year, as provided in Section 42.

"Tax Credits": Federal low income housing tax credits, as authorized by Section 42.

(Source: Emergency amendment at 21 Ill. Reg. 4028, effective March 17, 1997, for a maximum of 150 days)

## Section 350.104 Severability

## EMERGENCY

If any clause, sentence, paragraph, subsection, Section, or Subpart of this Part is adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect the validity of the remainder thereof. If any clause, sentence, paragraph, subsection, Section, or Subpart thereof is so adjudged, the clause, sentence, paragraph, subsection, Section, or Subpart thereof as to which such judgment is rendered.

(Source: Emergency amendment at 21 Ill. Reg. 4023, effective March 17, 1997, for a maximum of 150 days)

## SUBPART B: LOW-INCOME HOUSING TAX CREDIT ALLOCATIONS

## Section 350.201 Authority to Issue Tax Credits Credit-Issuing-Authority

## EMERGENCY

For any calendar year, the Authority may allocate Tax Credits in an amount not to exceed the Authority Housing Credit Ceiling, the amount of housing-tax-credit-dollars-to-be-allocated-is-based-on--the--State's--per-capita--allocation--for places--other--than--constitutional--home--rule--units--and--amounts--ceded--by constitutional--home--rule--units.

(Source: Emergency amendment at 21 Ill. Reg. 4023, effective March 17, 1997, for a maximum of 150 days)

## ILLINOIS HOUSING DEVELOPMENT AUTHORITY

## NOTICE OF EMERGENCY AMENDMENT

## Section 350.202 Allocation Pursuant to Qualified Allocation Plan

**EMERGENCY**

The Authority shall not allocate Tax Credits only any amount--of--housing-tax credit--dollars--unless--such--amount--was--allocated pursuant to and in compliance With the Authority's Qualified Allocation Plan.

(Source: Emergency amendment at 21 Ill. Reg. 4023, effective March 17, 1997, for a maximum of 150 days)

## Section 350.203 Application Process

**EMERGENCY**

A Any Sponsor may apply for an Allocation allocation--of--housing-tax-credit pursuant to the Application application--to--the--Authority on forms prescribed by the Authority, including the following information:

- a) The name and location of the proposed Project;
- b) The name, address and telephone number of the Sponsor, owner, attorney, architect, contractor and consultant;
- c) A history of the Sponsor's experience in developing housing, and low-income housing in particular;
- d) A complete description of the proposed Project, including but not limited to the number and type of units and a projected rent schedule, and identifying any proposed tenant populations with special housing needs;
- e) The amount and status of the proposed financing for the Project, including a certification from the Sponsor certifying the amount of all Federal, State and local subsidies which apply, or which the Sponsor expects to apply, with respect to the Project building.
- f) Percentage of Low-income low-income units, and the amount of floor space of such units, to be included in the Project as--defined--in Section--42--of--the--Internal--Revenue--Code--(26--U.S.C--42(f)(3))--and--the methodology used in estimating this percentage;
- g) The estimated total cost of the proposed Project, including the cost of land acquisition, the cost of construction, architects' fees, interior finishes, title insurance and all other costs associated with the Project;
- h) The amount--and--status--of--the--proposed--financing--for--the--Project--including--evidence--of--a--financing--commitment--from--the--source--of--financing;
- h) Dates of the Project's expected construction start--completion and placement into service;
- i) The amount of Tax Credits housing-tax-credit--dollars requested;
- j) A certification from the Sponsor certifying to the Authority that all information contained in the Application application and all accompanying information is true and accurate to the best of the Sponsor's knowledge and--that--the--Project--will--be--placed--in--service; and

## ILLINOIS HOUSING DEVELOPMENT AUTHORITY

## NOTICE OF EMERGENCY AMENDMENT

- i) The Sponsor shall submit an application--fee--of--\$500--with--the application--for--housing-tax-credit--dollars--Upon approval--of--the application--for--housing-tax-credit--dollars--the--Sponsor--shall--pay--a reservation--fee--of--\$500--or--5%--of--the--amount--of--the--credit reservation--whichever--is--greater--and
- km) Any additional documentation of the information provided in the Application application which the staff of the Authority may require in order to confirm the information in the application, e.g., financing commitment, legal description of the Project, etc.

(Source: Emergency amendment at 21 Ill. Reg. 4023, effective March 17, 1997, for a maximum of 150 days)

## Section 350.204 Notice of Application

**EMERGENCY**

The Authority shall send notice Notice of each Application a complete application for the proposed Project to the local jurisdiction in which the Project is to be located. The official shall have 30 days from the date of notification in which to comment on the Project.

(Source: Emergency amendment at 21 Ill. Reg. 4023, effective March 17, 1997, for a maximum of 150 days)

## Section 350.205 Authority Review

**EMERGENCY**

The Authority shall review each Upon receipt--of--a complete Application application for housing-tax-credit--dollars--the--Authority--shall--review--the application and approve or reject it in whole or in part. The Authority's in its review of an Application application--the--Authority shall include consider, but shall not be limited to, considering the following criteria:

- a) Section 42 Requirements. The ability of the Project to meet the requirements of Section 42 and other applicable sections of the Internal Revenue Code throughout the Compliance period--based--on information contained in the application;
- b) Financial Feasibility. The financial feasibility of the Project, taking into account the cost of financing, the cost of housing, the cost of construction, the cost of the Project, the projected income of the Project, and all sources of financing for the Project, including owner's equity;
- c) Sponsor's Ability. The ability of the Sponsor to successfully construct complete the Project and place it in service, taking into consideration the Sponsor's schedule submitted with the Application application, the Sponsor's experience in the development and rehabilitation of housing, and the size and scope of the Project;

## ILLINOIS HOUSING DEVELOPMENT AUTHORITY

## NOTICE OF EMERGENCY AMENDMENT

- d) Evidence of site control for the Project, satisfactory to the Authority Unit-Configuration--the number of units in the Project including the number of bedrooms per unit--that meet the area's housing needs as determined by the Authority;
- e) Location. The geographical location of the Project in relation to other Projects for which the Authority has have been allocated Tax Credits housing tax-credit-dollars for the calendar year, and whether the Project is located in other than a constitutional home rule unit which has not-secured its housing tax-credit-dollars--to the Authority. The Authority will ordinarily not approve Projects located in a constitutional home rule unit (as defined in the Internal Revenue Code) that has its own Tax Credit Program unless the Sponsor has applied for housing assistance from the Authority or another State agency;
- f) Housing Stock. The ability of the Project to increase the quality and quantity of housing stock and redevelop blighted areas or to prevent the occurrence of slum conditions;
- g) Number of low-income units--whether the designated number of units for low-income households exceeds the minimum requirements of Section 42 of the Internal Revenue Code;
- gh) Involuntary displacement. Projects, the ability of the Sponsor must to minimize involuntary displacement of current low-income tenants, low-income households, for rehabilitation Projects taking into consideration the safety of the tenants during rehabilitation; any necessary structural changes, the integrity of the structure and the scope and nature of the proposed rehabilitation;
- hi) Government Support. Assistance or financial support from Federal, State, or local governmental units;
- ij) Non-Profit Participation. Material participation of a qualified nonprofit organization in the development and operation of the Project, as provided set forth in Section 42(h)(4) of the Internal Revenue Code;
- jk) Special Needs Populations. The availability and accessibility of the Project for the physically handicapped, the mentally ill, the developmentally disabled or other special needs populations, as required by Federal and State law in compliance with Section 504 of the Rehabilitation Act of 1973 (42 U.S.C. Section 504);
- kl) Percentage of housing tax credit dollar amount. The amount of Tax Credits necessary to make the Project economically feasible, as determined by the Authority, percentage of housing tax-credit-dollars used for Project costs; the compliance period of the Project;
- lm) Compliance Period. Whether the Project is obligated to serve qualified tenants, pursuant to Section 42 of the Internal Revenue Code; the requirements of Section 42 of the Internal Revenue Code;
- ln) Lowest Income Tenants. The ability of the Project to serve the lowest-income tenants with incomes less than the maximum low-income for the area in which the Project will be located county, as

## ILLINOIS HOUSING DEVELOPMENT AUTHORITY

## NOTICE OF EMERGENCY AMENDMENT

determined by the Authority in evaluating the Project's proposed rent schedule;

no) Public Housing Waiting Lists. The availability of the Project to low-income households who have applied for public housing and whose names are on a waiting list maintained by a public housing authority, as certified by the Sponsor in the application; and

op) Preservation. The ability of the Sponsor to continue to provide low income housing for housing developments Projects currently eligible to be prepaid and converted to market rate housing. The Sponsor shall provide written evidence of the development's Project's eligibility for conversion prepayment and the development's Project's economic feasibility in the event of such conversion a prepayment.

(Source: Emergency amendment at 21 Ill. Reg. 4023, effective March 17, 1997, for a maximum of 150 days)

## Section 350.206 Allocation Amount - Project Feasibility

## EMERGENCY

The Authority shall not allocate Tax Credits The housing tax-credit-dollars amount allocated to a Project in an amount greater than shall not exceed the amount the Authority determines is necessary for the financial feasibility of the Project and its viability as a qualified low-income housing project and shall not be used to subsidize the Project's financial feasibility. Tax-credit-dollars allocated for the Project will be the amount the Authority determines to be necessary at the time the building is placed in service. In making this determination of feasibility, the Authority shall consider the sources and uses of funds and the total amount of financing planned for the Project--the percentage of the housing tax-credit-dollars amount used for Project costs--other than the costs of intermediaries--so long as this consideration is not applied so as to impede the development of Projects in hard-to-develop areas of the State and any proceeds or receipts expected to be generated by reason of tax benefits--the Authority shall make a determination of feasibility at each of the following times:

- a) the application for the housing tax-credit-dollars amount; and
- b) the date of the conditional reservation of the Tax Credits for the Project housing tax-credit-dollars amount; and
- b) The date the Project building is placed in service.

(Source: Emergency amendment at 21 Ill. Reg. 4023, effective March 17, 1997, for a maximum of 150 days)

## Section 350.207 Approval or Rejection

## EMERGENCY

- a) Upon completion of its review of an Application, application for housing tax-credit-dollars, the Authority shall notify the Sponsor in writing of its approval or rejection of the Application application,

## ILLINOIS HOUSING DEVELOPMENT AUTHORITY

## NOTICE OF EMERGENCY AMENDMENT

in-whole-or-in-part considering the availability of Tax Credits housing-tax-credit-dollars; the need for Low-Income housing throughout the State, as determined by the Authority, based on census data, social surveys, published data, or on-site inspections; the geographic distribution of Tax Credits housing-tax-credit-dollars throughout the State; the information contained in the Application application; comments received pursuant to Section 350.204; and any other criteria set forth in the Qualified Allocation Plan.

b) Upon the approval of an Application, the application-for-housing-tax-credit-dollars-in-whole-or-in-part, the Authority shall issue a reservation letter conditionally reserving Tax Credits for the Project allocating housing-tax-credit-dollars-to-the-qualified-low-income biddings.

c) The conditional reservation letter-of-reservation shall set forth the terms and conditions upon which the Tax Credits housing-tax-credit-dollars will be allocated to the Project qualified-low-income biddings, including, but not limited to, the proposed Project with 1) Full compliance by both the Sponsor and the proposed Project with Section 42 and other applicable sections of the Internal Revenue Code;

2) Certification from the Sponsor certifying to the Authority that the Sponsor and the Project are in full compliance with Section 42 and other applicable sections of the Internal Revenue Code and will continue to be in such compliance for such time as required by the Internal Revenue Code; and

3) Certification from the Sponsor that there will be no change in the Sponsor, or the Sponsor's organizational structure or the structure of the Project transaction without the prior written approval of the Authority. The Authority shall approve the change-if-the-Sponsor-or-Sponsor's-structure-or-the-structure-of-the-transaction-complies-with-Sections-350.203-and-350.205-of this-Part.

4) Certification from the Sponsor certifying the amount-of-all Federal-Sponsor-and-local-subsidies-when-apply-or-when-the Sponsor-expects-to-apply-with-respect-to-the-Building.

5) Execution of an Extended Use Agreement between the Sponsor and the Authority, the Sponsor-receiving-any-allocation-of-housing-tax-credit biddings pursuant to Section 350.208 of this Part.

(Source: Emergency amendment at 21 Ill. Reg. 4023, effective March 17, 1997, for a maximum of 150 days)

## Section 350.208 Extended Use Agreement Low-Income-Housing-Commitment

## EMERGENCY

The Sponsor and the Authority shall enter into an Extended Use Low-Income Housing-Commitment Agreement before the Authority allocates Tax Credits to the Project prior-to-the-Sponsor-receiving-any-allocation-of-housing-tax-credit

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dollars. Pursuant to such Agreement, the Sponsor and its successors and assigns shall be required to meet the Applicable Fraction of Low-Income housing-tax-credit-dollars required by Section 42 for an extended-use period of at least fifteen (15) years beyond the Compliance Period. The Agreement shall contain any language necessary to comply with the requirements of Section 42(h)(6) of the Internal Revenue Code and shall be recorded with the office of the Recorder of Deeds in the county in which the Project is located as a restrictive covenant on the real estate on which property-of the Project is located.

(Source: Emergency amendment at 21 Ill. Reg. 4023, effective March 17, 1997, for a maximum of 150 days)

## Section 350.209 Project Certification

## EMERGENCY

As of the date the Project is placed in service, the Sponsor shall certify to the Authority as to all amounts of Federal Federal, State and local subsidies which apply, or which the Sponsor expects to apply, with respect to the Project. The Sponsor shall further certify as to the Sponsor's and the Project's compliance with Section 42 and other applicable sections of the Internal Revenue Code and shall provide to the Authority with any documentation submitted to the Internal Revenue Service which establishes compliance with the requirements of Section 42 and other applicable sections of the Internal Revenue Code.

(Source: Emergency amendment at 21 Ill. Reg. 4023, effective March 17, 1997, for a maximum of 150 days)

## Section 350.210 Housing Tax Credit Dollars Allocation

## EMERGENCY

After acceptance of Sponsor's Application application and receipt by the Authority of all requested documentation, in a format acceptable to the Authority which establishes to the satisfaction of the Authority that the Sponsor and the Project are in compliance with all the requirements of Section 42 and other applicable sections of the Internal Revenue Code, the Authority shall allocate Tax Credits housing-tax-credit-dollars to the Project and send Form 8609 to the Internal Revenue Service notifying it of the allocation of Tax Credits for the Project.

(Source: Emergency amendment at 21 Ill. Reg. 4023, effective March 17, 1997, for a maximum of 150 days)

Section 350.211 Reservation of Housing Tax Credit Dollars for Permitted Year Other Than Current Calendar Year

## EMERGENCY

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The Authority may approve a Sponsor's Application for housing-tax credit-debtors for a calendar year subsequent to the year of the Application, thereby reserving the Tax Credits credits from the Authority Housing Credit Ceiling for the subsequent year. Such retroactive approval meets the requirements of the Internal Revenue Code. The Authority shall continue to have the authority to reserve the Housing Credit Ceiling for housing-tax-credit-debtors in the calendar year of the subsequent year and the date on which the Project will be placed in service.

## Section 350.212 Revocation of Reservations

**EMERGENCY**

The Authority reserves the right to revoke Reservations of housing-tax-credit-debtors if a Sponsor fails to place the Project in service within the calendar year for which the Tax Credits housing-tax-credit-debtors have been reserved, or fails to meet the requirements for a carryover allocation, as set forth in Section 42 of the Internal Revenue Code, or if the Project would otherwise not comply with Section 42 and other applicable sections of the Internal Revenue Code or with this Part.

(Source: Emergency amendment at 21 Ill. Reg. 4023, effective March 17, 1997, for a maximum of 150 days)

## Section 350.213 Compliance Monitoring

**EMERGENCY**

The Authority shall, pursuant to the Qualified-Allocation-Plan, monitor the Project for compliance with Section 42 of the Internal Revenue Code. If the Authority discovers that a Project which has received an Allocation of housing-tax-credit-debtors is not in compliance with Section 42 of the Internal Revenue Code, the Authority shall notify the Internal Revenue Service of that noncompliance. This compliance monitoring will be effective for all Projects regardless of the date of Allocation allocation. The Authority may charge the Sponsor an administrative fee not to exceed the greater of \$100 per year or \$7,506 per unit per year for administrative costs incurred by the Authority in monitoring for implementation of the compliance monitoring system. This fee will be in addition to the fees set forth referenced in Section 350.214 350-203444 of this Part.

(Source: Emergency amendment at 21 Ill. Reg. 4023, effective March 17, 1997, for a maximum of 150 days)

## Section 350.214 Fees

**EMERGENCY**

The Sponsor shall pay the following non-refundable fees in connection with its Application:

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- a) An Application fee in the amount of \$500 for Projects having 25 or fewer units and \$1,000 for Projects having more than 25 units. If the Sponsor is applying as a non-profit Project, as provided in Section 42, the Application fee shall be \$500 regardless of the number of units in the Project.
- b) A Modification fee of \$500 or 6.5% of the amount of the Reservation for the Project, whichever is greater, upon the issuance of a letter from the Authority to the Sponsor conditionally reserving Tax Credits in a specific amount for the Project. In the case of Projects financed with tax-exempt bonds, the fee shall be 6.5% of the amount of the Tax Credits for which the Authority determines the Project is eligible.
- c) If the Sponsor requests an increase in the amount of Tax Credits for a Project, an increase fee of \$1,000.
- d) A Modification fee equal to:
  - 1) \$250 for requests for changes in the name or ownership structure of the Sponsor, or for extensions of time for meeting conditions set forth in the Reservation letter;
  - 2) \$500 for requests for modifications in the characteristics of the Project; and
  - 3) \$1,000 for issuance of an amended Form 8609 to the Internal Revenue Service due to errors in the submission of the documentation required by Section 350.210 of this Part and the Qualified Allocation Plan.

- e) If the Sponsor requests that the Authority do a subsidy layering review that is required by HUD, a fee of \$500.

(Source: Emergency amendment added at 21 Ill. Reg. 4023, effective March 17, 1997, for a maximum of 150 days)

## Section 350.215 Carryover Allocations

**EMERGENCY**

If a Sponsor is unable to place its Project in service in the year in which it receives a Reservation, it may apply to the Authority for a carryover allocation reserving the Tax Credits for the Project for two additional years, subject to the requirements of Section 42. If the Authority determines that the Project has met the carryover allocation requirements of Section 42, the Authority shall issue a carry over allocation letter carrying over the Reservation for two additional years.

(Source: Emergency amendment added at 21 Ill. Reg. 4023, effective March 17, 1997, for a maximum of 150 days)



## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: Rights and Responsibilities

2) Code Citation: 89 Ill. Adm. Code 102

3) Section Numbers: Emergency Action:

102.70 Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13].

5) Effective Date of Amendments: March 14, 1997

6) If these Emergency Amendments are to expire before the end of the 150-day period, please specify the date on which it is to expire: Not Applicable

7) Date Filed in Agency's Principal Office: March 14, 1997

8) Reason for Emergency: The Department has been working on a new policy manual, capable of being computerized and available on-line, for a number of years. Until recently it was not clear when the new manual would actually be introduced or how extensive the changes would be. The Department is now releasing the new manual and a numbering system is being implemented in March 1997. This renaming is necessary because all of the required computer changes cannot be made immediately in order to print the revised citations to the new policy manual on all of the required client notices. Therefore, some of the notices will continue to use citations to the numbering system of the previous policy manual. The transition to the new numbering system should be completed by March 1998.

9) Complete Description of the Subjects and Issues Involved: The Department of Public Aid is issuing a new policy manual with a new numbering system in March 1997. These proposed amendments provide that references to provisions of the policy manual using the previous numbering system will be deemed to refer to the parallel provisions of the new policy manual while the new numbering system is being implemented. Since the Department is required to include references to the provisions of its policy manual in notices to clients, this rulemaking is necessary to insure compliance with this requirement during the transition to the new numbering of the new policy manual.

10) Are there any Proposed Amendments pending to this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
102.21	Amendment	March 7, 1997 (21 Ill. Reg. 2924)
102.270	Amendment	January 24, 1997 (21 Ill. Reg. 1171)
102.280	Amendment	January 24, 1997 (21 Ill. Reg. 1171)

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

11) Statement of Statewide Policy Objectives: These emergency amendments do not affect units of local government.

12) Information and questions regarding these Emergency Amendments shall be directed to:

Judy Umunna  
Bureau of Rules and Regulations  
Illinois Department of Public Aid  
100 South Grand Avenue East, Third Floor  
Springfield, IL 62762  
217/524-3215

The full text of the Emergency Amendments begins on the next page:



## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES  
CHAPTER 1: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER A: GENERAL PROVISIONS

## PART 102

## RIGHTS AND RESPONSIBILITIES

## Section

- 102.10 Incorporation By Reference
- 102.10 Rights of Clients
- 102.20 Nondiscrimination
- 102.21 Voter Registration
- 102.25 Grievance Rights of Clients
- 102.30 Confidentiality of Case Information
- 102.35 Case Records
- 102.40 Freedom of Choice
- 102.40 Reporting Change of Circumstances
- 102.60 Referral Requirements
- 102.63 Reporting Child Abuse/Neglect
- 102.66 Suitability of Home
- 102.70 Notice to Client

## EMERGENCY

- 102.80 Right to Appeal
  - 102.81 Continuation of Assistance Pending Appeal
  - 102.82 Time Limit for Filing an Appeal
  - 102.83 Examining Department Records
  - 102.84 Child Care
  - 102.90 Voluntary Repayment of Assistance
  - 102.90 Assistance (Recodified)
  - 102.100 Recoupment of Overpayments (Recodified)
  - 102.120 Correction of Underpayments
  - 102.200 Recovery of Assistance
  - 102.210 Estate Claims
  - 102.220 Real Property Liens
  - 102.230 Filing and Renewal of Liens
  - 102.235 Liens on Property of Institutionalized Recipients
  - 102.240 Foreclosure of Liens
  - 102.250 Release of Liens
  - 102.260 Personal Injury Claims
  - 102.270 Convictions of Fraud - Eligibility
  - 102.280 Single Conviction of Fraud - Administrative Review Board
- AUTHORITY: Implementing Article XI and authorized by Section 12-13 of the Illinois Public Aid Code [305 ICFS 5/Art. XI and 12-13].

SOURCE: Filed and effective December 31, 1977; preemptory rule at 2 Ill. Reg. 52, p. 449, effective December 13, 1978; amended at 2 Ill. Reg. 52, p. 482, December 23, 1978; preemptory amendment at 3 Ill. Reg. 11, p. 39, effective

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

March 1, 1979; amended at 3 Ill. Reg. 41, p. 167, effective October 1, 1979; amended at 3 Ill. Reg. 43, p. 196, effective October 15, 1979; amended at 5 Ill. Reg. 8035, effective July 27, 1981; amended at 5 Ill. Reg. 10777, effective October 1, 1981; amended at 6 Ill. Reg. 894, effective January 7, 1982; codified at 7 Ill. Reg. 5706; amended at 7 Ill. Reg. 8350, effective July 1, 1983; amended at 8 Ill. Reg. 18910, effective September 26, 1984; amended at 9 Ill. Reg. 377, effective December 31, 1984; amended at 9 Ill. Reg. 3730, effective March 13, 1985; amended at 9 Ill. Reg. 6812, effective April 26, 1985; amended at 9 Ill. Reg. 7162, effective May 1, 1985; amended at 9 Ill. Reg. 13091, effective August 16, 1985; amended at 9 Ill. Reg. 16704, effective September 1, 1985; amended 981, effective February 22, 1986; amended at 10 Ill. Reg. 14795, effective August 29, 1986; amended at 10 Ill. Reg. 19088, effective October 24, 1986; Sections 102.100 and 102.110 recodified to 89 Ill. Admin. Code 165 at 10 Ill. Reg. 21094; amended at 11 Ill. Reg. 14067, effective August 10, 1987; amended at 11 Ill. Reg. 18239, effective October 30, 1987; amended at 12 Ill. Reg. 3735, effective February 5, 1988; amended at 13 Ill. Reg. 3940, effective March 10, 1989; amended at 14 Ill. Reg. 13279, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 20078, effective December 3, 1990, for a maximum of 150 days; amended at 15 Ill. Reg. 7202, effective April 30, 1991; amended at 18 Ill. Reg. 273, effective December 28, 1993; amended at 18 Ill. Reg. 8938, effective June 3, 1994; amended at 19 Ill. Reg. 1108, effective January 26, 1995; emergency amendment at 19 Ill. Reg. 12320, effective August 14, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 883, effective December 29, 1995; amended at 21 Ill. Reg. 619, effective January 1, 1997; emergency amendment at 21 Ill. Reg. 403, effective March 14, 1997, for a maximum of 150 days.

## Section 102.70 Notice to Client

EMERGENCY

- a) Every applicant for assistance shall be sent or given a written notice of disposition of the application.
  - b) Every recipient for assistance shall be sent or given a written notice whenever assistance is reduced or discontinued.
  - c) Notices denying, reducing, or discontinuing assistance shall contain the following information:
    - 1) A clear statement of the action being taken.
    - 2) A clear statement of the reason for the action.
    - 3) A reference to the statute, rule, or policy provision under the authority of which the action is taken.
- From March 1997 through March 1998, references to provisions of the Department's Policy manuals using the numbering system in use in 1996 shall be deemed to be references to the corresponding provisions of the new numbering system introduced in 1997.
- 4) A complete statement of the client's right to appeal (see subsection (d) below and Sections 102.80 through 102.82).
  - d) Timely Notice

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- 1) All notices concerning local office reduction or discontinuance of assistance shall be "timely" except notices to cases in which the reduction or discontinuance is due to information received on the monthly report. "Timely" notice shall be mailed or given at least ten (10) calendar days prior to the date the reduction or discontinuance will occur, and shall inform the client that if the client files an appeal by the date the reduction or discontinuance will occur, his or her assistance will be continued at its previous level, pending the results of the appeal unless the client specifically requests that the assistance benefits not be continued. The notice shall be dated with the date it is mailed or given. (Day one of the ten (10) day period is the day following the date on the notice. Day ten may be no later than the date the reduction or discontinuance will occur.)
- 2) Notices sent concerning reduction or discontinuance of assistance by agency action initiated centrally and notices to cases in monthly reporting when the action is due to information received on the monthly report or due to failure to submit a complete monthly report may be either "timely" or "adequate", as defined by Federal regulation. When timely notice is not required and an adequate notice is sent less than ten (10) days before the date of change, the client may receive continuing benefits if the appeal is filed within 45 days after the date of notice. (See 89 Ill. Adm. Code 112.302.)

## e) Aid to Families With Dependent Children

- 1) Every recipient who makes a written request for a grant increase or a special authorization shall be sent or given written notice of the disposition of the request within 45 days after the date of the request.
- 2) Every recipient who makes a request for Special Assistance (89 Ill. Adm. Code 116.500), Emergency Assistance (89 Ill. Adm. Code 116.510) or Hardship Assistance (89 Ill. Adm. Code 116.520) shall be sent or given a written notice of the disposition of the request within 45 days after the date of the request.
- 3) Approval of General Assistance as a result of cancellation of AFPC or AABD or reduction of AFPC (Applicable Only in City of Chicago)
  - 1) A notice of intended cancellation or reduction of benefits is sent to an AFPC or AABD recipient, in the City of Chicago, whose assistance is discontinued or a person deleted from the Assistance Unit (AFPC only) for one of the following reasons:
    - A) AABD:
      - i) no longer blind, disabled
    - B) AFPC:
      - i) no longer an eligible child in the home,
      - ii) no longer incarcerated,
      - iii) absent parent returned home,

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

- iv) no longer an unemployed parent,
  - w) stepparent's liability sufficient to meet need,
  - x) stepparent's failure to pay child support, or
  - y) stepparent participating in a strike
- 2) If a recipient from one of the programs listed in subsection (f)(1) applies for General Assistance (GA) within thirty-(30) days of the notice of cancellation or reduction of benefits and if that recipient is determined to be eligible for GA such benefits shall be authorized with no gap in assistance (see also 89 Ill. Adm. Code 110.301).
- g) Food Stamp households shall be notified
  - 1) If there is no change in benefits following submission of a change report form.
  - 2) If food stamp benefits are being reduced or discontinued, the following additional information shall be included on the notice:
    - A) a statement indicating the local Public Aid office;
    - B) a statement indicating the household's liability for benefits received while waiting for a fair hearing decision, if the decision is adverse to the household; and
    - C) a statement indicating the general availability of outside representation or organizations providing free legal representation and the telephone number of those individuals or organizations.
- 3) A notice shall be sent to eligible households by the 30th day following the date of application. If the household is found not eligible to participate, the notice of denial shall be sent by the 30th day following the date of application.
- 4) If the local office cannot act on an application by the 30th day because the case file is incomplete due to a household's delay, a notice of denial shall be sent on the 30th day. However, the household has an additional 30 (thirty) days to complete the application. If the delay is caused by the local office, a notice of pending status shall be sent to the household by the 30th day.

(Source: Emergency amendment at 21 Ill. Reg. **1037**, effective March 14, 1997, for a maximum of 150 days)

DEPARTMENT OF TRANSPORTATION  
NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: General Information, Regulations and Definitions
- 2) Code Citation: 92 Ill. Adm. Code 171
- 3) Section Numbers:  
171.5      Emergency Action:  
171.22      Renumber  
171.1000      New Section Amend
- 4) Statutory Authority: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act (430 ILCS 304(a) and 9(a)).
- 5) Effective Date of Emergency Amendments: March 17, 1997
- 6) If this emergency amendment is to expire before the end of the 150 day period, please specify the date on which it is to expire: Not applicable
- 7) Date Filed in Agency's Principal Office: March 17, 1997
- 8) Reason for Emergency: On February 19, 1997, the Research and Special Programs Administration, U.S. Department of Transportation, issued an emergency interim final rule "Hazardous Materials: Cargo Tank Motor Vehicles in Liquefied Compressed Gas Service". This emergency interim final rule, 62 FR 7637, February 19, 1997 (effective February 19, 1997 through August 15, 1997), necessitates a revision to the Illinois Hazardous Materials Transportation Regulations (IHMTA) and the incorporation by reference of 49 CFR 171.

62 FR 7637 amends the IHMTA to specify the conditions under which certain cargo tank motor vehicles may continue to be used on an interim basis, even if they are equipped with emergency discharge control systems which may not function as required by the regulations under all operating conditions. 62 FR 7637 addresses specifications WC 330, WC 331, and WC 332. The emergency interim final rule amends the IHMTA to specify that cargo tank motor vehicles which are used to deliver propane and other liquefied compressed gases, it responds to a recently discovered safety defect which may affect many of these cargo tank motor vehicles. The intended effect of this emergency rule is to ensure, on an interim basis, an acceptable level of emergency safety for delivery of liquefied compressed gases while US DOT develops and implements a permanent solution.

On September 8, 1996, more than 30,000 gallons of propane were released during a delivery at a bulk storage facility in Sanford, North Carolina. During unloading, the discharge hose from the cargo tank separated at its hose coupling at the storage tank inlet connection. Most of the cargo tank's 9,800 gallons and more than 30,000 gallons from the storage tanks were released. If this large quantity of propane had reached an ignition

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source, 125 people (workers, residents and emergency responders) could have been killed. Between 1990 and 1991, five reported deaths and 695 injuries resulted from propane incidents in highway transportation.

In the Sanford incident, the excess flow feature of the emergency discharge control system did not function, and propane continued to be released from the system. In order to enhance the level of safety during transfer operations using current equipment, this emergency rule provides a set of alternative safety controls for the carriage of liquefied gases in cargo tanks that cannot be demonstrated to conform with existing excess flow feature requirements.

The emergency interim final rule, which is incorporated by reference by this emergency amendment, enhances the safety of product transfer operations as they are currently conducted, in most cases, while allowing the continued delivery of liquefied compressed gases (principally propane, other liquefied petroleum gases and anhydrous ammonia).

- 9) A Complete Description of the Subjects and Issues Involved: By this Notice of Emergency Amendments, the Department is incorporating by reference the emergency interim final rule adopted at 62 FR 7637, February 19, 1997.

This rulemaking incorporates by reference changes made in the following Docket:

Docket HN-225 (62 FR 7637, February 19, 1997) specifies the conditions under which certain cargo tank motor vehicles may continue to be used on an interim basis.

The Department is renumbering Section 171.5 to Section 171.22 to accommodate the February 19, 1997 final rule which established 49 CFR 171.5 as "Temporary regulation; liquefied compressed gases in cargo tank motor vehicles".

- 10) Are there any Proposed Amendments to this Part pending? No

- 11) Statement of Statewide Policy Objectives: This rulemaking will affect units of local government which transport or offer for transportation certain hazardous materials in commerce.

- 12) Information and Questions Regarding these Amendments shall be directed to:

By U.S. Mail:

Ms. Catherine Allen  
Illinois Department of Transportation  
Division of Traffic Safety

DEPARTMENT OF TRANSPORTATION  
NOTICE OF EMERGENCY AMENDMENTS

P.O. Box 19212  
Springfield, Illinois 62794-9212  
(217) 785-1181

By Inter-Agency Mail:

DOT Annex Building  
3215 Executive Park Drive  
Third Floor  
Springfield, IL

JCAR questions, comments and concerns should be addressed to:

Christine Caronna-Beard, Rules Manager  
Illinois Department of Transportation  
Room 111, Hanley Building  
2300 S. Milken Parkway  
Springfield, IL 62764  
(217) 782-3213

The full text of the Emergency Amendments begins on the next page:

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NOTICE OF EMERGENCY AMENDMENTS

TITLE 92: TRANSPORTATION  
CHAPTER 1: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER c: HAZARDOUS MATERIALS TRANSPORTATION REGULATIONS

PART 171

GENERAL INFORMATION, REGULATIONS AND DEFINITIONS

Section

171.1 Purpose and Scope  
171.2 General Transportation Requirements  
171.3 Hazardous Waste  
171.4 Exemptions (Renumbered)  
171.5 Agricultural Exception (Renumbered)

EMERGENCY

171.6 Agricultural Exception (Renumbered)  
171.7 Matter Incorporated by Reference (Repealed)  
171.8 Definitions and Abbreviations (Repealed)  
171.9 Rules of Construction (Repealed)  
171.10 Import and Export Shipments (Repealed)  
171.11 Specialization (Repealed)  
171.12 Spill Prevention and Control (Repealed)  
171.13 Incident Reporting Requirements  
171.14 Exemptions  
171.15 Continuation of Effectiveness of Existing Bureau of Explosives Registrations (Repealed)  
171.16 Approvals or Authorizations Issued by the Bureau of Explosives (Repealed)  
171.17 Retailer Exception  
171.18 Agricultural Exception  
171.19 Incorporation by Reference of 49 CFR 171

EMERGENCY

EMERGENCY

AUTHORITY: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].

SOURCE: Adopted at 3 Ill. Reg. 5, p. 41, effective February 1, 1979; amended at 6 Ill. Reg. 4287, effective April 16, 1982; amended at 7 Ill. Reg. 3486, effective April 2, 1983; codified at 8 Ill. Reg. 17984; amended at 10 Ill. Reg. 9639, effective May 15, 1986; amended at 10 Ill. Reg. 20753, effective December 1, 1986; amended at 11 Ill. Reg. 1184, effective March 10, 1987; amended at 11 Ill. Reg. 150, effective March 10, 1987; amended at 11 Ill. Reg. 7767, effective April 14, 1987; amended at 11 Ill. Reg. 17886, effective October 20, 1987; amended at 12 Ill. Reg. 8078, effective April 26, 1988; amended at 13 Ill. Reg. 3984, effective March 14, 1989; amended at 14 Ill. Reg. 2621, effective February 1, 1990; amended at 15 Ill. Reg. 7752, effective May 7, 1991; amended at 16 Ill. Reg. 12208, effective July 20, 1992; amended at 18 Ill. Reg. 7861, effective May 6, 1994; amended at 20 Ill. Reg. 6539, effective April 30, 1996; emergency amendment at 21 Ill.

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Reg. 4043, effective March 17, 1997.

Section 171.5 Agricultural Exception (Renumbered)  
EMERGENCY

(Source: Section 171.5 renumbered to Section 171.22 by emergency amendment at 21 Ill. Reg. 4043, effective March 17, 1997, for a maximum of 150 days)

Section 171.22 171.5Agricultural Exception  
EMERGENCY

This Part and Driving and Parking; 92 Ill. Adm. Code 397 do not apply to the transportation of those hazardous materials cited below when such commodities are transported from retailer to final agricultural end user, or between final end users from farm to farm in approved containers and in the amounts and manner specified:

- Agricultural pesticides classified as Class 3, Class 8, Class 9 or Division 6.1 noninhalation hazard by these regulations, when moved in quantities of 2,268 kilograms (5,000 pounds) or less (aggregate gross weight) or 1,493 liters (500 gallons) or less volume in solution.
- Gasoline, diesel fuels, oils, lubricants, and liquefied petroleum gas, when moved in quantities of 11,356 liters (3,000 gallons) or less and properly placarded in accordance with 92 Ill. Adm. Code 172.50(a).
- Any agricultural chemicals, when transported in quantities of 7,257 kilograms (16,000 pounds) (gross weight) or less.
- Any dangerous ammonia when transported in a cargo tank (commonly known as a nurse tank and considered an implement of husbandry) operated by private carriers exclusively for agricultural purposes, provided the cargo tank:
  - Has a minimum design pressure of 250 pounds per square inch (p.s.i.) and meets the requirements of the ASME code in effect at time of manufacture and is marked accordingly;
  - Is equipped with safety relief valves meeting the requirement of CGA Pamphlet S1.2;
  - Is painted white or aluminum;
  - Has a capacity of 7,571 liters (2,000 gallons) or less;
  - Is loaded to a filling density of 56 percent of water density (85 percent of volume capacity);
  - Is securely mounted on a farm wagon; and
  - Is in conformance with the requirements of 92 Ill. Adm. Code 172; except that shipping papers are not required; and it need not be fitted or placarded on one end if that end contains valves, fittings, regulators, gauges, or other appurtenances that prevent the tank from being readily filled and discharged.
- Formulated agricultural chemicals not listed in Subsection (a) (c) above which are offered for transportation in less-than-case lot quantities, or when repackaged, are not subject to 92 Ill. Adm. Code

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NOTICE OF EMERGENCY AMENDMENTS

172, Subpart D and the outside specification packaging requirements of Part 173 if all of the following conditions are met:

- Inside packagings are enclosed in strong outside packagings.
- Inside liquid packagings are cushioned, if necessary, to prevent breakage and leakage;
- Each inside packaging does not exceed 10 liters (2.6 gallons) capacity for liquids or 15 kilograms (33 pounds) for dry materials;
- Gross weight of less-than-case or repackaged lots is not over 50 kilograms (110 pounds) in each vehicle;
- Transportation is authorized only by private motor vehicle application, if that distance does not exceed one hundred miles.
- Formulated liquid agricultural chemicals in specification packagings of 220 liters (58 gallons) capacity, or less, with closures manifested to a closed mixing system and equipped with positive dry disconnect devices may be transported by a private motor carrier between a final distribution point and an ultimate point of application or loading aboard an aircraft for aerial application.

(Source: Section 171.22 renumbered from Section 171.5 by emergency amendment at 21 Ill. Reg. 4043, effective March 17, 1997, for a maximum of 150 days)

Section 171.1000 Incorporation by Reference of 49 CFR 171  
EMERGENCY

- As Part 171 of the Illinois Hazardous Materials Transportation Regulations, the Department incorporates the following sections of 49 CFR 171 by reference, as those sections of the federal hazardous materials transportation regulations were in effect on October 1, 1994, as amended at 59 FR 53116, October 21, 1994; as amended at 59 FR 55162, November 3, 1994; as amended at 59 FR 64742, December 15, 1994; as amended at 59 FR 67390, December 29, 1994; as amended at 60 FR 26796, May 18, 1995; as amended at 60 FR 39608, August 2, 1995; as amended at 60 FR 40030, August 4, 1995; as amended at 60 FR 48780, September 20, 1995; as amended at 60 FR 49048, September 21, 1995; as amended at 60 FR 49106, September 21, 1995; and as amended at 60 FR 50292, September 28, 1995; as amended at 62 FR 7637, February 19, 1997, subject only to the exceptions in subsection (b) of this Section. No later amendments to or editions of those sections of 49 CFR 171 are incorporated.

171.4	Marine Pollutants
171.5	Emergency Regulations: Liquefied Compressed Gases in Cargo Tank Motor Vehicles
171.6	Repacked Materials
171.7	Definitions and Abbreviations
171.8	

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF EMERGENCY AMENDMENTS

- 171-9 Rules of Construction  
 171-10 Units of Measure  
 171-11 Use of ICBO Technical Instructions  
 171-12 Import and Export Shipments  
 171-12a Canadian Shipments and Packagings  
 171-14 Transitional Provisions  
 For Amending Requirements Based on the UN  
 171-18 Continuation of Effectiveness of Existing Bureau of  
 Explosives Registrations  
 171-19 Approvals or Authorizations Issued by the Bureau of  
 Explosives  
 171-20 Submission of Examination Reports

b) The following interpretations of, additions to and deletions from the above incorporated sections of 49 CFR 171 shall apply for purposes of this Part.

- 1) All references to "this part" in the incorporated federal regulations shall mean Part 171 of the Illinois Hazardous Materials Transportation Regulations.
- 2) All references to "this chapter" or "this subchapter" in the incorporated federal regulations shall mean 92 Ill. Adm. Code: Chapter 1, Subchapter c.
- 3) All references to a section of the regulations in the incorporated federal regulations shall be read to refer to the section in the Illinois Hazardous Materials Transportation Regulations.
- 4) All references to Part 176 or to sections therein shall be read to refer to that part or sections in the federal regulations.
- 5) All references to shipments of hazardous materials by air, water and rail are incorporated for reference purposes only for those persons contemplating intermodal movements of hazardous materials.
- 6) All references to "these regulations" refers to the Illinois Hazardous Materials Transportation Regulations, 92 Ill. Adm. Code 107 through 180.
- 7) All references to a "settlement agreement", in these regulations, means a written understanding between the Department and the person being charged.

(Source: Emergency amendment at 21 Ill. Reg. \_\_\_\_\_, effective March 17, 1997, for a maximum of 150 days)

## CARNIVAL-AMUSEMENT SAFETY BOARD

## NOTICE OF PUBLIC HEARING ON PROPOSED RULES

- 1) Heading of Part: Carnival and Amusement Ride Inspection Law
- 2) Code Citation: 56 Ill. Adm. Code 6000
- 3) Register Citation to Notice of Proposed Rules:  
 The text of the Proposed Rules appears in this issue (March 28, 1997) of the Illinois Register.
- 4) Date, Time, Place and Location of Public Hearing:

May 20, 1997  
 Tuesday, 11:00 a.m.  
 Illinois Department of Labor  
 State of Illinois Building  
 160 N. LaSalle, Suite C-1300  
 Chicago, IL 60601

- 5) Other Pertinent Information: Oral testimony will be limited to 10 minutes per person. Written comments may also be submitted at the public hearing and will be accepted until June 2, 1997.

Written comments should be submitted within 45 days after this notice to:

Carl Kimble, Chief Inspector  
 Carnival & Amusement Ride Division  
 Illinois Department of Labor  
 #1 W. Old State Capitol Plaza, Room 300  
 Springfield, IL 62701  
 217/782-9347



## DEPARTMENT OF PROFESSIONAL REGULATIONS

## NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT(S)

- 1) Heading of the Part: Pharmacy Practice Act of 1987
- 2) Code Citation: 68 Ill. Adm. Code 1330
- 3) Register Citation to Notice of Proposed Amendments: 20 Ill. Reg. 12592; September 27, 1996

4) Date, Time and Location of Public Hearings:

Thursday, April 10, 1997, 10:00 a.m.  
Department of Professional Regulation  
James R. Thompson Center, 9th Floor, Room 9-031  
100 West Randolph  
Chicago, Illinois 60605

5) Other Pertinent Information:

Each person presenting oral testimony shall provide a written copy of such testimony at the time the oral testimony is presented.

Each person presenting oral testimony will be allowed 15 minutes for the presentation.

Those individuals who are unable to attend the public hearing but wish to comment on the Proposed Amendments should submit written comments by April 30, 1997, to:

Jean A. Courtney  
Department of Professional Regulation  
320 West Washington, 3rd Floor  
Springfield, IL 62786  
217/785-0810

## DEPARTMENT OF REVENUE

## NOTICE OF EXPEDITED CORRECTION

- 1) Heading of the Part: Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 130
- 3) Section Numbers: 130.805
- 4) Date Proposal Published in Illinois Register: July 12, 1996, 20 Ill. Reg. 8961
- 5) Date Adoption Published in Illinois Register: December 13, 1996, 20 Ill. Reg. 15753
- 6) Date Request for Expedited Correction Published in Illinois Register: January 24, 1997, 21 Ill. Adm. Code 1237
- 7) Adoption Effective Date: December 2, 1996
- 8) Correction Effective Date: December 2, 1996
- 9) Reason for Approval of Expedited Correction: Corrects a missing word that was inadvertently omitted from the text of the proposed rule.

The full text of the Corrected Rule begins on the following page:

## DEPARTMENT OF REVENUE

## NOTICE OF EXPEDITED CORRECTION

## TITLE 86: REVENUE

## CHAPTER I: DEPARTMENT OF REVENUE

## PART 130

## RETAILERS' OCCUPATION TAX

## SUBPART A: NATURE OF TAX

Section  
 130.101 Character and Rate of Tax  
 130.102 Responsibility of Trustees, Receivers, Executors or Administrators  
 130.103 Occasional Sales  
 130.104 Sale of Used Motor Vehicles by Leasing or Rental Business  
 130.105 Habitual Sales  
 130.106 Nontaxable Transactions

## SUBPART B: SALE AT RETAIL

Section  
 130.201 The Test of a Sale at Retail  
 130.202 Sales for Transfer Incident to Service  
 130.203 Sales of Tangible Personal Property to Purchasers for Resale  
 130.204 Further Illustrations  
 130.205 Sales to Lessors of Tangible Personal Property

## SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section  
 130.301 Farm Machinery and Equipment  
 130.302 Food, Drugs, Machines and Medical Appliances  
 130.303 Fuel Sold for Use in Vessels on Rivers Bordering Illinois  
 130.304 Gasohol  
 130.305 Fuel Used by Air Common Carriers in International Flights  
 130.306 Graphic Arts Machinery and Equipment Exemption  
 130.307 Manufacturing Machinery and Equipment  
 130.308 Pollution Control Facilities  
 130.309 Rolling Stock  
 130.310 Oil Field Exploration, Drilling and Production Equipment  
 130.311 Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment

## SUBPART D: GROSS RECEIPTS

Section  
 130.401 Meaning of Gross Receipts  
 130.402 How to Avoid Paying Tax on State or Local Tax Passed on to the Purchaser  
 130.403 Cost of Doing Business Not Deductible

## DEPARTMENT OF REVENUE

## NOTICE OF EXPEDITED CORRECTION

Transportation and Delivery Charges  
 Finance or Interest Charges--Penalties--Discounts  
 Traded-In Property  
 Deposit or Prepayment on Purchase Price  
 State and Local Taxes Other Than Retailers' Occupation Tax  
 Penalties

Federal Taxes  
 130.445 Installation, Alteration and Special Service Charges  
 130.450 Motor Vehicle Leasing and Trade-In Allowances  
 130.455

## SUBPART E: RETURNS

Section  
 130.501 Monthly Tax Returns--When Due--Contents  
 130.502 Quarterly Tax Returns  
 130.503 Returns and How to Prepare  
 130.504 Annual Tax Returns  
 130.505 First Return  
 130.515 Final Returns When Business is Discontinued  
 130.520 Who May Sign Returns  
 130.525 Returns Covering More Than One Location  
 130.530 Registration--Separate Returns for Separately Registered Locations  
 130.535 Payment of the Tax, Including Quarterly Monthly Payments in Certain Instances

130.540 Returns on a Transaction by Transaction Basis  
 130.545 Registrants Must File a Return for Every Return Period  
 130.550 Filing of Returns for Retailers by Suppliers Under Certain Circumstances  
 130.551 Prepayment of Retailers' Occupation Tax on Motor Fuel  
 130.555 Vending Machine Information Returns  
 130.560 Verification of Returns

## SUBPART F: INTERSTATE COMMERCE

Section  
 130.601 Preliminary Comments  
 130.605 Sales of Property Originating in Illinois  
 130.610 Sales of Property Originating in Other States

## SUBPART G: CERTIFICATE OF REGISTRATION

Section  
 130.701 General Information on Obtaining a Certificate of Registration  
 130.705 Procedure in Disputed Cases Involving Financial Responsibility Requirements  
 130.710 Procedure When Security Must be Forfeited  
 130.715 Sub-Certificates of Registration  
 130.720 Separate Registrations for Different Places of Business or Same

## DEPARTMENT OF REVENUE

## NOTICE OF EXPEDITED CORRECTION

Taxpayer Under Some Circumstances  
 Display  
 130.725  
 Replacement of Certificate  
 130.730  
 Certificate Not Transferable  
 130.735  
 Certificate Required For Mobile Vending Units  
 130.740  
 Revocation of Certificate  
 130.745

## SUBPART H: BOOKS AND RECORDS

Section  
 130.801  
 General Requirements  
 130.805  
 What Records Constitute Minimum Requirement  
 130.810  
 Records Required to Support Reductions  
 130.815  
 Preservation of Books During Pendency of Assessment Proceedings  
 130.820  
 Department Authorization to Destroy Records Sooner Than Would  
 130.825  
 Otherwise be Permissible

## SUBPART I: PENALTIES AND INTEREST

Section  
 130.901  
 Civil Penalties  
 130.905  
 Interest  
 130.910  
 Criminal Penalties

## SUBPART J: BINDING OPINIONS

Section  
 130.1001  
 When Opinions from the Department are Binding

## SUBPART K: SELLERS LOCATED ON, OR SHIPPING TO, FEDERAL AREAS

Section  
 130.1101  
 Definition of Federal Area  
 130.1105  
 No Deliveries on Federal Areas Are Taxable  
 130.1110  
 No Distinction Between Deliveries on Federal Areas and Illinois  
 Deliveries Outside Federal Areas

## SUBPART L: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

Section  
 130.1201  
 General Information  
 130.1205  
 Due Date that Falls on Saturday, Sunday or a Holiday

## SUBPART M: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

Section  
 130.1301  
 When Lessee of Premises Must File Return for Leased Department

## DEPARTMENT OF REVENUE

## NOTICE OF EXPEDITED CORRECTION

130.1305 When Lessor of Premises Should File Return for Leased Department  
 130.1310 Meaning of "Lessor" and "Lessee" in this Regulation

## SUBPART N: SALES FOR RESALE

Section  
 130.1401  
 Seller's Responsibility to Determine the Character of the Sale at  
 the Time of the Sale  
 130.1405  
 Seller's Responsibility to Obtain Certificates of Resale and  
 Requirements for Certificates of Resale  
 130.1410  
 Requirements for Certificates of Resale (Repealed)  
 130.1415  
 Resale Number--When Required and How Obtained  
 130.1420  
 Blanket Certificate of Resale (Repealed)

## SUBPART O: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section  
 130.1501  
 Claims for Credit--Limitations--Procedure  
 130.1505  
 Disposition of Credit Memoranda by Holders Thereof  
 130.1510  
 Refunds  
 130.1515  
 Interest

SUBPART P: PROCEDURE TO BE FOLLOWED UPON  
SELLING OUT OR DISCONTINUING BUSINESS

Section  
 130.1601  
 When Returns are Required After a Business is Discontinued  
 130.1605  
 When Returns are Not Required After Discontinuation of a Business  
 130.1610  
 Cross Reference to Bulk Sales Regulation

## SUBPART Q: NOTICE OF SALES OF GOODS IN BULK

Section  
 130.1701  
 Bulk Sales: Notices of Sales of Business Assets

## SUBPART R: POWER OF ATTORNEY

Section  
 130.1801  
 When Powers of Attorney May be Given  
 130.1805  
 Filing of Power of Attorney With Department  
 130.1810  
 Filing of Papers by Agent Under Power of Attorney

## SUBPART S: SPECIFIC APPLICATIONS

Section  
 130.1901  
 Addition Agents to Plating Baths  
 130.1905  
 Agricultural Producers  
 130.1910  
 Antiques, Curios, Art Work, Collectors' Coins, Collectors' Postage

## DEPARTMENT OF REVENUE

## NOTICE OF EXPEDITED CORRECTION

Stamps and Like Articles  
 Auctioneers and Agents  
 Barbers and Beauty Shop Operators  
 Blacksmiths  
 Blacksmiths  
 Chiropodists, Osteopaths and Chiropractors  
 Computer Software  
 Construction Contractors and Real Estate Developers  
 Co-operative Associations  
 Dentists  
 Dentists  
 Enterprise Zones  
 Sales of Building Materials to a High Impact Business  
 Farm Chemicals  
 Finance Companies and Other Lending Agencies - Installment Contracts  
 Repossessions  
 Bartenders and Nursemen  
 Operators of Games of Chance and Their Suppliers  
 Optometrists and Opticians  
 Pawnbrokers  
 Peddlers, Hawkers and Itinerant Vendors  
 Personalizing Tangible Personal Property  
 Persons Engaged in the Printing, Graphic Arts or Related Occupations, and Their Suppliers  
 Persons Engaged in Nonprofit Service Enterprises and in Similar Enterprises Operated As Businesses, and Suppliers of Such Persons  
 Sales by Teacher-Sponsored Student Organizations  
 Exemption Identification Numbers  
 Sales by Nonprofit Service Enterprises  
 Persons Who Rent or Lease the Use of Tangible Personal Property to Others  
 Persons Who Repair or Otherwise Service Tangible Personal Property  
 Physicians and Surgeons  
 Picture-Framers  
 Public Accountants  
 Retailers of Clothing and Druggists  
 Retailers of Clothing  
 Shows, Flea Markets and the Like  
 Sales and Gifts by Employers to Employees  
 Sales by Governmental Bodies  
 Sales of Alcoholic Beverages, Motor Fuel and Tobacco Products  
 Sales of Automobiles for Use in Demonstration  
 Sales of Containers, Wrapping and Packing Materials and Related Products  
 Sales to Construction Contractors, Real Estate Developers and Speculative Builders  
 Sales to Governmental Bodies, Foreign Diplomats and Consular Personnel

## DEPARTMENT OF REVENUE

## NOTICE OF EXPEDITED CORRECTION

Sales to or by Banks, Savings and Loan Associations and Credit Unions  
 Sales to Railroad Companies  
 Sellers of Gasohol, Coal, Coke, Fuel Oil and Other Combustibles  
 Sellers of Feeds and Breeding Livestock  
 Sellers of Newspapers, Magazines, Books, Sheet Music and Phonograph Records and Their Suppliers  
 Sellers of Seeds and Fertilizer  
 Sellers of Machinery, Tools and the Like  
 Suppliers of Persons Engaged in Service Occupations and Professions  
 Trading Stamps and Discount Coupons  
 Undertakers and Funeral Directors  
 Vending Machines  
 Vendors of Curtains, Slip Covers, Floor Covering and Other Similar Items Made to Order  
 Vendors of Meals  
 Vendors of Memorial Stones and Monuments  
 Vendors of Signs  
 Vendors of Stoves  
 Vendors of Tangible Personal Property Employed for Premiums, Advertising, Prizes, Etc.  
 Veterinarians  
 Warehousemen

ILLUSTRATION A: Examples of Tax Exemption Cards

AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act (35 ILCS 120) and authorized by Section 39b3 of the Civil Administrative Code of Illinois (20 ILCS 2505/39b3).

SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 13, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 11, 1980; amended at 5 Ill. Reg. 8, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

## DEPARTMENT OF REVENUE

## NOTICE OF EXPEDITED CORRECTION

Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987; amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988; not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 28, 1989; amended at 14 Ill. Reg. 241, effective October 11, 1989; amended at 14 Ill. Reg. 874, effective January 1, 1990; amended at 11 Ill. Reg. 15463, effective October 1, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 8623, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 4053, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4053, effective December 2, 1996.

## SUBPART H: BOOKS AND RECORDS

## Section 130.805 What Records Constitute Minimum Requirement

- a) In General. A taxpayer shall maintain all records that are necessary to a determination of the correct tax liability under the Act. All required records must be made available on request by the Department. Where a taxpayer's business consists exclusively of the sale of tangible personal property at retail, the following records will be deemed by the Department to constitute a minimum for the purposes of the Act:

- 1) Cash register tapes and other data which will provide a daily record of the gross amount of sales.
- 2) A record of the amount of merchandise purchased. To fulfill this requirement, copies of all vendors' invoices and taxpayers' copies of purchase orders must be retained serially and in sequence as to date.
- 3) A true and complete inventory of the value of stock on hand taken at least once each year.

- b) Records prepared by Automated Data Processing Systems (ADP). When an ADP tax accounting system is used to maintain all or part of a

## DEPARTMENT OF REVENUE

## NOTICE OF EXPEDITED CORRECTION

taxpayer's accounting or financial records, such ADP system must include a method of producing legible and readable records which will provide the necessary information for verifying tax liability. If a taxpayer retains records required to be retained under Section 130.801 of this Part, in both machine-sensible and hard-copy formats, the taxpayer shall make the records available to the Department in machine-sensible format upon request of the Department in accordance with Section 130.805(b)(5)(B). ADP accounting systems encompass all types of data processing systems, including, but not limited to, mainframe computer systems, stand-alone or networked microcomputer systems, Database Management Systems (DBMS) and systems using Electronic Data Interchange (EDI) technology.

- 1) Define the following terms:
  - a) "Database Management System" or "DBMS" means a software system that creates, controls, relates, retrieves and provides accessibility to data stored in a database.
  - b) "Electronic Data Interchange" or "EDI technology" means the computer-to-computer exchange of business transactions in a standardized structured electronic format.
  - c) "Machine-sensible record" means a collection of related information in an electronic format. Machine-sensible records do not include hard-copy records that are created or recorded on paper or stored in or by an imaging system such as microfilm, microfiche or storage-only imaging systems.
  - d) "Storage-only imaging systems" means a system of computer hardware and software that provides for the storage, retention and retrieval of documents originally created on paper. It does not include any system, or part of a system, that manipulates or processes any information contained or contained on the document in hard-copy or as an optical image.
- 2) Recordkeeping Requirements - Machine-Sensible Records
  - a) General Requirements
    - i) Machine-sensible records used to establish tax compliance shall be retained by the taxpayer. The retained records shall provide sufficient information to establish matters required to be shown by a taxpayer in any tax or information returns. The machine-sensible records shall contain sufficient transaction-level detail information so that the details and the source documents underlying the machine-sensible records can be identified and made available to the Department upon request.
    - ii) The retained records should reconcile to the books and records to the tax return by establishing the relationship (e.g., the audit trail) between the total of the

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amounts in the retained records to the totals in the books and to the tax return.

iii) The retained records must be capable of being processed. For purposes of this Section, "capable of being processed" means to be able to retrieve, manipulate, print hard-copy, or produce other output. This term does not encompass any requirement that the program or system that created the computer data be available to process the data unless the process is essential to a tax-related computation.

iv) Taxpayers are not required to construct machine-sensible records other than those created in the ordinary course of business. A taxpayer who does not create the electronic equivalent of a traditional paper document in the ordinary course of business is not required to construct such a record for tax purposes.

v) All records required to be retained under this Section shall be preserved unless the Department has provided written notice that the records are no longer required as explained in Section 130.025 of this Part.

## B)

Electronic Data Interchange

i) Where a taxpayer uses electronic data interchange processes and technology, the level of record detail, in combination with other records related to the transaction, must be equivalent to the level of detail contained in an acceptable paper record. For example, the retained records should contain such information as vendor name, invoice date, product description, quantity purchased, price, amount of tax, indication of tax status, shipping detail, etc. Codes may be used to identify some or all of the data elements, provided that the taxpayer provides a method which allows the Department to interpret the coded information.

ii) The taxpayer may capture the information necessary to satisfy subsection (b)(2)(B)(i) at any level within the accounting system and need not retain the original EDI transaction records provided the audit trail, authenticity and integrity of the retained records can be ascertained.

For example, a taxpayer using electronic data interchange technology receives electronic invoices from its suppliers. The taxpayer decides to retain the invoice data from completed and verified EDI transactions in its accounts payable system rather than to retain the EDI transactions themselves. Since neither the EDI transaction nor the accounts payable

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system captures information from the invoice pertaining to product description and vendor name, (i.e., they contain only codes for that information), the taxpayer also retains other records, such as its vendor master file and product code description lists and makes them available to the Department. In this example, the taxpayer need not retain its EDI transaction for tax purposes.

C) Electronic Data Processing Systems Requirements. The requirements for an electronic data processing accounting system are similar to that of a manual accounting system, in that an adequately designed accounting system should incorporate methods and records that will satisfy the requirements of this Section.

## 3) Recordkeeping Requirements - ADP Systems Documentation

A) Upon the request of the Department, the taxpayer shall provide a description of the business process that created the retained records. Such description shall include the relationship between the records and the tax documents prepared by the taxpayer and the measures employed to ensure the authenticity and integrity of the records.

B) The taxpayer shall be required to demonstrate that:

- the functions being performed as they relate to the flow of data through the system;
- the internal controls used to ensure accurate and reliable processing; and
- the internal controls used to prevent the unauthorized addition, alteration or deletion of retained records.

C) The following specific documentation is required for machine-sensible records pursuant to this Section:

- record formats and layouts;
- field definitions (including the meaning of all "codes" used to represent information);
- file descriptions (e.g., data set name); and
- detailed charts of accounts and account descriptions.

D) Any changes to the items specified in subsections (b)(3)(B) and (C) above, together with their effective dates, shall be documented and made available to the Department upon request.

## 4) Machine-Sensible Records Maintenance Requirements

A) The establishment of records management practices is solely at the discretion of the taxpayer. The taxpayer shall be liable for protecting its records from loss or destruction at the time of an examination by the Department. The Department recommends but does not require that taxpayers refer to the National Archives and Record Administration's (NARA) standards for guidance on the maintenance and storage of electronic records.



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- B) In establishing records management practices, taxpayers should consider, for example, the labeling of records, the security of the storage environment, the creation of back-up copies and their storage location and the use of periodic testing to confirm the continued integrity of the records.
- C) The NARA standards may be found at 36 CFR 1234, July 1, 1995 edition.
- D) The taxpayer's computer hardware or software shall accommodate the processing of or the extraction and conversion of retained machine-sensible records.
- 5) Access to machine-sensible records. Records in which the Department is provided access to machine-sensible records as required in Section 130.805(b) and Section 130.801(d) of this Part may be satisfied through a variety of means that shall take into account a taxpayer's facts and circumstances through consultation with the taxpayer. Such access will be provided in one or more of the following manners:
- A taxpayer may provide the Department copies of the machine-sensible records for use on the Department's equipment;
  - The taxpayer may arrange to provide the Department with the hardware, software and personnel resources necessary to access and process the machine-sensible records;
  - The taxpayer may arrange for a third party to provide the hardware, software and personnel resources necessary to access and process the machine-sensible records;
  - The taxpayer may convert machine-sensible records to a standard record format specified by the Department on a magnetic medium that is agreed to by the Department. This standard may include conversion to different media (e.g., from mainframe files to microcomputer diskettes). These records may be processed on the Department's equipment or at the taxpayer's location;
  - The taxpayer and the Department may agree on other means of providing access to the machine-sensible records.
- 6) Taxpayer Responsibility and Discretionary Authority
- A) In discharging their responsibilities under the Act, taxpayers are empowered to determine which of their machine-sensible records must be retained and which records may be discarded. These determinations require a consideration of all the facts and circumstances, including whether duplicated or redundant records exist.
- B) In general, taxpayers should retain the machine-sensible records that are the most direct evidence of the transactions, and have discretion to discard duplicated records and redundant information. In exercising this discretion, the taxpayer should generally retain those records that best facilitate the retrieval and processing of

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- the data during an audit. For example, departmental records stored in departmental data files that are duplicated in a central system could be discarded provided that all required information in the departmental records is contained in the central system and the requirements of this Section are met. Similarly, daily or weekly data files could be discarded provided that appropriate monthly, quarterly or annual data files with the ability to access appropriate transaction-level records are available.
- C) In conjunction with the methods and requirements of this Section, the taxpayer may, for example, file a database management system is used, it is consistent with this Section for the taxpayer to create and retain a file that contains the transaction-level detail from the database management system and that meets the requirements of the Section. The taxpayer should document the process that created the separate file to show the relationship between that file and the original records.
- D) A taxpayer may contract with a third party to provide custodial or management services of the records. Such a contract shall not relieve the taxpayer of its responsibilities under this Section.
- c) Alternative Storage Media. For purposes of storage and retention, taxpayers may convert hard-copy documents received or produced in the normal course of business and required to be retained under this Section to microfilm, microfiche or other storage-only imaging systems and may discard the original hard-copy documents, provided the conditions of this Section are met. Records may be stored on magnetic cartridges or magnetic disks described in subsection (b) of this Section. Documents which may be stored on these media include, but are not limited to, general books of account, journals, voucher registers, general and subsidiary ledgers and supporting records of details, such as sales invoices, purchase invoices, exemption certificates and credit memoranda. Microfilm, microfiche and other storage-only imaging systems shall meet the following requirements:
- Documentation establishing the procedures for converting the storage-only imaging systems to microfilm, microfiche or other storage-only imaging systems must be maintained and made available on request. Such documentation shall, at a minimum, contain sufficient description to allow an original document to be followed through the conversion system as well as internal procedures established for inspection and quality assurance.
  - Procedures must be established for the effective identification, processing, storage and preservation of the stored documents and for making them available for the periods they are required to be retained under the Retailers' Occupation tax Act [35 ILCS 120].

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- 3) All data stored on microfilm, microfiche or other storage-only imaging systems must be maintained and arranged in a manner that permits the location of any particular record.
- 4) Microfiche, microfilm or other storage-only imaging systems records must be indexed, cross-referenced and labeled to show beginning and ending numbers or beginning and ending alphabetical listing of documents included, and must be systematically filed to permit the immediate location of any particular record. A posting reference must be on each document and a control log or catalog of such documents must be maintained.
- 5) Upon request of the Department, a taxpayer must provide facilities and equipment, in good working order, for reading, locating and reproducing any documents maintained on microfilm, microfiche or other storage-only imaging systems.
- 6) When displayed on such equipment or reproduced on paper, the documents must exhibit a high degree of legibility and readability. For this purpose, legibility is defined as the quality of a letter or numeral that enables the observer to identify it positively and quickly to the exclusion of all other letters or numerals. Readability is defined as the quality of a group of letters or numerals being recognized as words or complete phrases.
- 7) Taxpayers must be able to produce substantial evidence that the microfilm, microfiche or other storage-only imaging systems lack authenticity or integrity.

## d) Effect on Hard-Copy Recordkeeping Requirements

- 1) Except as otherwise provided, the provisions of this Section do not relieve taxpayers of the responsibility to retain hard-copy records that are created or received in the ordinary course of business as required by existing law and regulations. Hard-copy records may be retained on a recordkeeping medium provided in subsection (c).
- 2) If hard-copy records are not produced or received or required to be produced or received in the ordinary course of transacting business (i.e., when the taxpayer uses electronic data interchange technology), such hard-copy records need not be created.
- 3) Unless hard-copy records are required to be provided or received, hard-copy records generated at the time of a transaction need not be retained if all the details relating to the transaction are subsequently received by the taxpayer in an EDI transaction and are retained by the taxpayer in accordance with this Section.
- 4) Hard-copy records generated at the time of a transaction using a computer need not be retained if the taxpayer can demonstrate the necessary to determine correct tax liability relating to the transaction are subsequently received and retained by the taxpayer in accordance with this Section. Such details include, but may not be limited to, those listed in subsection (b)(2)(B).

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- 5) Computer printouts that are created for validation, control or other temporary purposes need not be retained.
- 6) Nothing in this Section shall prevent the Department from requesting hard-copy printouts of retained machine-sensible records. These requests may be made either at the time of an examination or in conjunction with the testing described in Section 130.825 of this Part.

(Source: Expedited correction at 21 Ill. Reg. 405.2, effective December 2, 1996)

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of March 11, 1997 through March 17, 1997 and have been scheduled for review by the Committee at its April 15, 1997 meeting in Springfield. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield, IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>JCAR Meeting</u>	<u>Start of First Notice</u>
4/25/97	Department of Natural Resources, White-Tailed Deer Hunting by Use of Bow and Arrow (17 Ill Adm Code 670)	4/15/97	1/10/97 21 Tll Reg 520
4/25/97	Department of Natural Resources, White-Tailed Deer Hunting by Use of Firearms (17 Ill Adm Code 650)	4/15/97	1/10/97 21 Tll Reg 531
4/25/97	Department of Natural Resources, White-Tailed Deer Hunting Season by Use of Muzzleloading Rifles (17 Tll Adm Code 660)	4/5/97	1/10/97 21 Tll Reg 542
4/26/97	Department of Agriculture, Grain Code (8 Tll Adm Code 281)	4/15/97	1/24/97 21 Tll Reg 1114
4/26/97	Department of Agriculture, Illinois State Fair, and Duquoin State Fair, Non-Fair Space Rental and the General Operation of the State Fairgrounds (8 Tll Adm Code 270)	4/15/97	1/24/97 21 Tll Reg 1119
4/30/97	Illinois Liquor Control Commission, The Illinois Liquor Control Commission (11 Tll Adm Code 100)	4/15/97	1/31/97 21 Tll Reg 1355
7/7-93/95-9			11-100-5
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92-1002-1		ADOPTED	92-1002-1
		2-560-1	
		4-1100-2	

Rules acted upon during the quarter of January 1 through March 31, 1997 are listed in the Issues Index by Title number, Part number and Issue number. For example, 50 III. Adm. Code 4401 published in Issue 40 will be listed as 44-041-40. Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-4414 or [initialofficecode.sos.state.il.us](mailto:initialofficecode.sos.state.il.us) (Internet address).

92-1205-13  
92-1456-11

# EMERGENCY

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